

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

UNITED STATES OF AMERICA,

Plaintiff;

v.

Criminal Action  
3:14CR12

ROBERT F. McDONNELL and  
MAUREEN G. McDONNELL,

Defendants.

August 12, 2014  
Richmond, Virginia  
10:25 a.m.

JURY TRIAL - VOLUME XII

BEFORE: HONORABLE JAMES R. SPENCER  
United States District Judge

APPEARANCES: MICHAEL S. DRY, ESQ.  
DAVID V. HARBACH, II, ESQ.  
JESSICA D. ABER, ESQ.  
RYAN S. FAULCONER, ESQ.  
Counsel for Government;

JOHN L. BROWNLEE, ESQ.  
HENRY W. ASBILL, ESQ.  
JAMES M. BURNHAM, ESQ.  
DANIEL I. SMALL, ESQ.  
CHRISTOPHER M. IAQUINTO, ESQ.  
OWEN T. CONROY, ESQ.  
Counsel for Robert F. McDonnell;

WILLIAM A. BURCK, ESQ.  
HEATHER H. MARTIN, ESQ.  
STEPHEN M. HAUSS, ESQ.  
DANIEL KOFFMANN, ESQ.  
Counsel for Maureen G. McDonnell.

JEFFREY B. KULL  
OFFICIAL COURT REPORTER

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1 P-R-O-C-E-E-D-I-N-G-S

2 THE CLERK: Day twelve, Case Number 3:14CR12:  
3 United States of America versus Robert F. McDonnell and  
4 Maureen G. McDonnell. The United States is represented by  
5 Michael Dry, David Harbach, Jessica Aber, and Ryan  
6 Faulconer. Robert F. McDonnell is represented by John  
7 Brownlee, Daniel Small, Henry Asbill, James Burnham, and  
8 Christopher Iaquinto. Maureen G. McDonnell is represented  
9 by Heather Martin, William Burck, Stephen Hauss, and  
10 Daniel Koffmann. Are counsel ready to proceed?

11 MR. DRY: The United States is ready to proceed.

12 MR. BURCK: Maureen McDonnell is ready to  
13 proceed.

14 MR. ASBILL: Mr. McDonnell is ready to proceed.

15 THE COURT: All right. Let's bring in the jury.

16 (The jury entered the courtroom.)

17 All right, good morning, ladies and gentlemen.

18 For the record, Juror Number 0356 has been excused. First  
19 alternate, Juror Number 12, Mr. \*\*\*, has been moved up to  
20 the active jury. Mr. Dry?

21 DIRECT EXAMINATION (Cont'd.)

22 BY MR. DRY:

23 Q Mr. Kilgore, you know you are still under oath?

24 A Yes.

25 Q Okay. Upon further reflection, I only have two

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1 questions for you, I think.

2 A That's good.

3 Q Now, without getting into the substance of the  
4 conversation, on March 15th of 2013, did you receive a  
5 call from Mr. Williams regarding a package he had received  
6 from Ms. McDonnell?

7 A Yes, I did.

8 Q And as a result of that call, what did you do?

9 A I was out of town, so I directed my assistant to go  
10 to the Star office here in Glen Allen, Virginia, and pick  
11 up all the material.

12 Q Okay.

13 MR. DRY: No further questions.

14 THE COURT: Cross?

15 CROSS-EXAMINATION

16 BY MR. BROWNLEE:

17 Q Good morning, Mr. Kilgore. My name is John Brownlee.  
18 I represent Bob McDonnell and I have a few questions for  
19 you this morning.

20 A Good morning.

21 Q Thank you. I believe you started your testimony  
22 indicating that you had a meeting with Mr. Williams here  
23 in Richmond on July 6th; is that correct?

24 A In July, yes, correct.

25 Q And Mr. Williams apparently flew up here from his

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1 home in Florida and you all met at one of the local hotels  
2 and had breakfast or some meal; is that correct?

3 A I'm not sure how he got here, Mr. Brownlee, but I  
4 know we met at the Berkeley Hotel for lunch.

5 Q Okay. And Mr. McDonnell was not there; is that  
6 right?

7 A That's correct.

8 Q Okay. Let me pull up just for the witness, if I can,  
9 RM-0520. Mr. Kilgore, this is a receipt or an invoice for  
10 Mr. Williams' trip that day to meet with you on July 6th.

11 A Okay.

12 Q It indicates that Governor McDonnell was at that  
13 meeting with you; do you see that there, sir?

14 A I see meetings with Governor McDonnell and former  
15 Governor Kilgore.

16 Q Right. He was not at that meeting with you, correct?

17 A Correct. Nor was I Governor.

18 Q Thank you.

19 MR. BROWNLEE: We move RM-0520, Your Honor.

20 THE COURT: It will be admitted.

21 BY MR. BROWNLEE:

22 Q Now, you indicated that -- you can take that down.

23 Thank you. You had indicated that at this meeting,

24 Mr. Williams decided to retain you to assist him in trying  
25 to get some state funding for the research of his product,

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1 Anatabloc.

2 A Correct.

3 Q Okay. And it is my understanding that what you kind  
4 of laid out on the table for him at that time were really  
5 two options for him; is that correct?

6 A Correct. Tobacco funds through TICR, the TICR  
7 organization, or Virginia -- I think you are calling it  
8 Virginia Tobacco Commission; and then or, a state budget  
9 line item for research.

10 Q Okay. So just so I'm clear, the Tobacco funding is  
11 the process, and I think you and Mr. Dry went through some  
12 of it; that's where you have to get some public entity to  
13 kind of apply on your behalf.

14 A Yes.

15 Q And if this whole Commission approves it, then you  
16 could get some of their tobacco money.

17 A Correct.

18 Q Okay. And I think you testified that from the  
19 tobacco side, your brother, Terry Kilgore, who is a member  
20 of the House of Delegates, correct?

21 A Correct.

22 Q He is the Chairman of that Tobacco Commission.

23 A Yes, he is now. Yes.

24 Q Okay. And did you inform Mr. Williams that you had  
25 this connection with the Tobacco Commission?

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1 A I'm sure I said that Terry was on the Commission.

2 But I just can't -- I would normally say that. I can't  
3 recall for sure that I said that.

4 Q That's a pretty big deal.

5 A I would normally say that.

6 Q To hire you as lobbyist for this project, and you  
7 happen to have your brother kind of running it. That's a  
8 pretty big deal, right?

9 A Well, I mean, I'm glad he is there.

10 Q Fair enough. Now, I understand that your wife,  
11 Marty, also has some relationship with the Tobacco  
12 Commission; can you let us know that?

13 A It is not the Commission. She runs the, what's now  
14 called the Healthy Use Initiative for the Commonwealth,  
15 which is the other side of the tobacco settlement funding,  
16 if you will, and their mission is to stop smoking in  
17 teenagers, and the mission of that, just because I know  
18 from Attorney General days, is to spend those dollars on  
19 advertising campaigns, to deal with smoking cessation in  
20 kids and youth.

21 Q Okay. So at that meeting when you are discussing  
22 those two, Mr. Williams is now aware that you have this  
23 relationship, these relationships with the Tobacco  
24 Commission, and that's one option for him to try to get  
25 some state dollars?

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1 MR. DRY: Objection, Your Honor. That's not  
2 what the witness testified to. He said he may have said  
3 something about his relationship, but he didn't say he  
4 could say, it was normal.

5 THE COURT: Sustained.

6 BY MR. BROWNLEE:

7 Q You believe you informed Mr. Williams that your  
8 brother was head of this Commission?

9 A I can't say for sure, but I think I did. But I can't  
10 say for sure.

11 Q So that's the Tobacco Commission. There was another  
12 option that you discussed with him, which is this line  
13 item.

14 A Correct.

15 Q Is it accurate that that's a process where the  
16 Governor can simply insert into the state budget a line  
17 item for a particular project?

18 A Correct. Yes, can insert it, and submit it as part  
19 of the Governor's budget or budget amendments, depending  
20 on the year you are in.

21 Q And it is my understanding that the biennial budget  
22 is about \$99 billion; am I in the ballpark?

23 A Yes. Used to be, when I got here in Richmond, it was  
24 \$20 billion.

25 Q So it is a lot of money.

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1 A Right.

2 Q What we are talking about here for this research is  
3 about three to \$4 million.

4 A I think so.

5 Q Is that what Mr. Williams was thinking it might cost?

6 A I never got to an exact amount because we were still  
7 pursuing UVA and VCU.

8 Q All right. Now, of those two, I think that -- well,  
9 let me move forward a little bit. You then prepared kind  
10 of a memorandum for him; is that right?

11 A Correct.

12 Q And I believe that's been put into evidence as  
13 Government Exhibit 202. If we could pull that up. If we  
14 go to the next page. This is kind of the main body of the  
15 memo where you are kind of outlining for Star the options  
16 that you think or the schedule you believe you would have  
17 to do to get what he wanted; is that correct?

18 A Correct.

19 Q Okay. So this is kind of your plan for him.

20 A Yes.

21 Q If you look at the next page, it is actually kind of  
22 a checklist of things that need to be done for them to be  
23 successful; is that correct?

24 A Correct.

25 Q Okay. So the first three, those in August, you



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1       stated that those were kind of up to Star themselves to  
2       do.

3       A       Yes. We weren't designated to deal with UVA and that  
4       process, finding the researchers and things like that.

5       Q       Okay. So that would be Star. And it is your  
6       understanding that that just never got done.

7       A       It was on the slow roll, that's for sure.

8       Q       Okay. Let's look at September. This memorandum is  
9       dated August 10th. So now in September we have another, I  
10      think it is seven items there, action items to do. And so  
11      the Number 1, "Prepare advocacy materials." Who was to do  
12      that?

13      A       We would do that.

14      Q       Did you all ever do that?

15      A       No.

16      Q       Okay. The second one is the "Complete the tobacco  
17      pre-application for funds and submit to staff." Who was  
18      to do that one?

19      A       Chris Nolen with me was going to do that. He  
20      gathered information but did not complete it. He met with  
21      staff or talked to staff.

22      Q       But that never happened.

23      A       No.

24      Q       The next one, "Schedule meeting with staff."

25      A       Mr. Nolen did do that, yes.

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1 Q "Initiate the drafting of the grant." Was that ever  
2 done?

3 A No, because we needed to do the pre-application.

4 Q Okay. Now the next one here says, "Schedule meeting  
5 with Governor McDonnell and Governor's policy staff to  
6 request Governor to include state appropriation to UVA for  
7 specific research which could be eligible for match."  
8 This is what we talked about earlier where you would just  
9 sit down with the Governor and ask for the money.

10 A Correct.

11 Q And then if he supported this, then he would just put  
12 it in his budget?

13 A He could, yes.

14 Q And if the General Assembly supported it, boom, it is  
15 done.

16 A Right. Correct.

17 Q All right. The next one is "Determine professional  
18 economic impact analysis." That wasn't done.

19 A No.

20 Q And then, "Develop list of supporters for use,  
21 southside-based businesses." That wasn't done, either,  
22 right?

23 A No.

24 Q Let's go to the next ones quickly. We've got  
25 October, "Schedule meeting with Chairman." Was that done?

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1 A No.

2 Q "Meetings with the Chair of subcommittees"?

3 A No, it was not.

4 Q Were any of the other ones done?

5 A No, sir.

6 Q Okay. So none of the other stuff was done. So you

7 put this plan out in August. There's really two options:

8 You have the Tobacco Commission, and then the other one is

9 just to go straight to the Governor and ask for the money.

10 A Correct.

11 Q Let me talk about that one. I think you testified --

12 you can take that down -- I think you testified that when

13 you proposed this, that the meeting with the Governor and

14 Star to make that ask just never happened; is that right?

15 A It did not.

16 Q And it didn't happen, it is my understanding, because

17 Star never authorized you to set up that meeting.

18 A They weren't ready to -- right. They didn't have the

19 researchers at UVA lined up at that point.

20 Q But if you were just going to make the ask to the

21 Governor, you didn't need all the researchers, right? All

22 you would need to --

23 A You would need the researchers to take the money to

24 research. I would think you would. I wouldn't ask for

25 the meeting if I didn't have VCU or UVA on board.

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1 Q But you said that you had advanced this out for Star  
2 and Star had never come back to you and asked for this  
3 meeting.

4 MR. DRY: Asked and answered.

5 THE COURT: Overruled.

6 THE WITNESS: No, they did not.

7 BY MR. BROWNLEE:

8 Q Fair to say that between the two options, going  
9 through the Tobacco Commission and getting the public  
10 entity to approve and all that, just going straight to him  
11 and asking for the money is a lot easier, right?

12 A Oh, yes, than dealing with 30-some members of the  
13 Tobacco Commission.

14 Q That's just a direct route right then. He is the  
15 Governor. He can just do it if that's what he wants to  
16 do.

17 A Correct.

18 Q Okay. Let's move to this event at the Mansion. Fair  
19 to say that when this was coming up, Jasen Eige and Martin  
20 Kent contacted you at some time and basically had two  
21 issues with what was going on; is that correct?

22 A They had the issue with it being at the Mansion, yes.

23 Q Well, let me ask you this: Is it accurate that when  
24 Jasen first called you, he said, "It is my understanding  
25 there is a lunch and the launch and we don't like the

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1 launch," and you agreed, "Fine, we will move that to an  
2 off site"?

3 A He said he didn't like the -- it was the launch. He  
4 didn't like the launch at the Mansion. He did not  
5 distinguish on that day between lunch and launch.

6 Q That you recall.

7 A That I recall.

8 Q But he didn't like the launch or whatever, and that  
9 was not done, apparently?

10 A He suggested that it be moved to the Biotech Park,  
11 and I called Mr. Williams to pass that on.

12 Q Okay. And then with the press release, there were  
13 some issues with it, and you got that changed.

14 A Yes. Jasen complained about some of the language in  
15 the press release.

16 Q Okay. And when you heard that from Jasen, you  
17 believed that was a legitimate concern and you helped him  
18 change that.

19 A I did. Absolutely.

20 Q Okay. Now, let me just step back. How long have you  
21 known Jasen Eige?

22 A Oh, probably -- his mother-in-law was the Clerk of  
23 the Court in the Western District of Virginia, so I've  
24 known him since he married into the family.

25 Q So a long time.

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1 A A long time.

2 Q He worked with you?

3 A He came to Richmond as one of the Assistant Attorney  
4 Generals when I was Attorney General.

5 Q Okay. So fair to say you have known him for a long  
6 time and you have worked with him as well?

7 A Yes, absolutely.

8 Q And you have respect for him and you trust his  
9 judgment on things?

10 A Yes, I do.

11 Q When he worked for you, he was loyal and he looked  
12 after your best interests; is that correct?

13 MR. DRY: Objection, Your Honor.

14 THE COURT: Overruled.

15 BY MR. BROWNLEE:

16 Q When he worked with you, you believe that he acted in  
17 your best interests when you were Attorney General?

18 A Yes, I did.

19 Q Now, you have testified that sometime in February, he  
20 contacted you and said, "Hey, you all need to back off  
21 here, okay?" And it is my understanding what he said was,  
22 "Listen, the Governor supports all this, but we don't  
23 think it is appropriate, and so we are asking you to back  
24 off," and it is our understanding you followed up with  
25 that and did that.

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1 A He contacted me to say he didn't think it was  
2 appropriate for a Governor to weigh in with research  
3 institutions on research. I pushed back some to say,  
4 "Well, governors weigh in on things all the time." But I  
5 passed that on to Star.

6 Q But he also was, fair to say that he also told you in  
7 that same conversation, "But I want to let you know that  
8 the Governor supports this"?

9 A Yes.

10 Q Right?

11 A Yes.

12 Q And so let me ask you this: Because you know Jasen,  
13 is there any chance, Mr. Kilgore, that what he was doing  
14 to you, what he was communicating, was what we have  
15 referred to as a polite no? That "Listen, Jerry, I want  
16 to let you know the boss really supports this, but we just  
17 can't do this," and so that's what he was really  
18 communicating to you?

19 MR. DRY: Objection, calls for speculation.

20 THE COURT: Sustained.

21 BY MR. BROWNLEE:

22 Q You do know what a polite no is, right?

23 A I do.

24 Q When Jasen was talking to you, he made it pretty  
25 clear that whatever Mr. Williams wanted was not going to

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1     happen.

2     A     You know, I didn't leave the conversation that it was  
3     not going to happen. I left the conversation with it was  
4     Jasen being Jasen, Jasen was concerned, and didn't know  
5     that the Governor could or should call and weigh in with  
6     university researchers. And I pushed back some to say,  
7     "Well, the Governor can make a statement on whatever the  
8     Governor wants to make a statement on."

9     Q     But despite your pushing back, nothing ever happened  
10    after that, right?

11   A     I passed that on to Mr. Williams and Star. And I  
12   don't know that the researchers ever got on board at that  
13   point.

14   Q     Well, let's pull up Government Exhibit -- where did I  
15   put that, the one we just had up? Government Exhibit 202.  
16   Go to the last page. We just went through this,  
17   Mr. Kilgore. Once you hit September here, none of this  
18   ever happened. So when he calls you in February and tells  
19   you, "I think this is a bad idea, it is not going to  
20   happen." It never happened, right?

21   A     It was not happening at that time, correct. The only  
22   thing that had happened from like September to November  
23   was the November conference call with the research  
24   institutions.

25   Q     Okay. That was in November.



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1 A Correct.

2 Q We are talking now in February.

3 A Correct.

4 Q So nothing ever happened.

5 A I didn't know of anything happening between November  
6 and -- I mean, that wasn't my job, to deal with UVA and  
7 VCU. And I hadn't gotten an update on it.

8 Q Let's pull up Government Exhibit Number 4. Let's go  
9 to the second page. These are your billing records that  
10 were put into evidence; is that correct?

11 A Correct.

12 Q Let's look at -- and these are all the records that  
13 the government has given us from you all.

14 A Right. Correct.

15 Q How much time have you billed or did you bill on this  
16 matter after February of 2012?

17 A Just under -- oh, after February, none.

18 Q Zero, right?

19 A Correct.

20 Q Nothing.

21 MR. DRY: Objection, asked and answered.

22 THE COURT: Last I checked, zero was nothing.  
23 Why are you asking three questions in one? He has  
24 answered it.

25 MR. BROWNLEE: Thank you, Judge.

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1 BY MR. BROWNLEE:

2 Q We can take that down. Now, you had talked a little  
3 bit about when you were brought on to the case. Were you  
4 aware that it was Attorney General Cuccinelli who  
5 recommended you to Mr. Williams?

6 A Not at the time, I was not.

7 Q You now know that?

8 A I now know that.

9 Q Okay. And when you were first spoken to,  
10 Mr. Kilgore, Mr. Dry asked you where you presently work.  
11 And that's at McGuireWoods; is that correct?

12 A That is correct.

13 Q And McGuireWoods represents Mr. Williams; is that  
14 correct?

15 A Yes, they do.

16 Q Okay. If we pull up Exhibit 530. This is  
17 Mr. Williams' immunity agreement with the United States.  
18 And if you look at just the address on the top, Mr. Cullen  
19 from McGuireWoods, that's the Chairman of your firm; is  
20 that correct?

21 A That is correct.

22 MR. BROWNLEE: Court's indulgence for one  
23 moment, Your Honor. You can take that down.

24 (Counsel conferring with co-counsel.)

25 MR. BROWNLEE: That's all, Judge. Thank you.

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1 THE COURT: Mr. Burck?

2 CROSS-EXAMINATION

3 BY MR. BURCK:

4 Q Good morning, Mr. Kilgore.

5 A Good morning.

6 Q My name is Bill Burck and I represent Maureen  
7 McDonnell.

8 A Yes.

9 Q I want to focus on the summer of 2011. You were  
10 asked questions about the 2012, period but I'm just going  
11 to focus on 2011.

12 A Okay.

13 Q You testified about the lunch meetings you had with  
14 Mr. Williams in the summer of 2011. Remember that  
15 testimony?

16 A Yes.

17 Q And you talked to him about the various universities  
18 that could support the clinical trials, right?

19 A Correct.

20 Q And he had come to you with Johns Hopkins; isn't that  
21 right?

22 A He did.

23 Q As one of the options.

24 A Yes.

25 Q And you testified that --

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1 A That was his option.

2 Q Because that's in Maryland principally, right?

3 A Right.

4 Q You testified that you were telling him to focus on  
5 the Virginia options.

6 A Correct.

7 Q VCU, UVA, places like that?

8 A Correct.

9 Q So that suggestion, as far as you know, came from  
10 you, right?

11 A It did.

12 Q As far as you know, it didn't come from Governor  
13 McDonnell, right?

14 A No, I suggested VCU and UVA.

15 Q Ms. McDonnell, it didn't come from her, either,  
16 right?

17 A Not that I know of.

18 Q Let's talk about the August 1st lunch you had with  
19 Mary-Shea Sutherland and Mr. Williams.

20 A Yes.

21 Q I think you testified that this was in fact a lunch  
22 that Mary-Shea Sutherland had set up, that you were going  
23 to meet her for a regular lunch?

24 A Correct.

25 Q And you met with her a couple times a year; is that

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1     what you said?

2     A     Like every year. Once a year.

3     Q     Once a year. So when she showed up with  
4     Mr. Williams, that was a surprise to you.

5     A     Right. Well, they called right beforehand to say he  
6     would be joining us. Right.

7     Q     When she called and said she was bringing  
8     Mr. Williams, you hadn't known that before?

9     A     I did not know that, yes.

10    Q     When she showed up, did they mention, did either  
11    Mr. Williams or Ms. Sutherland mention to you that they  
12    had been at the Mansion together before the lunch?

13    A     They did not.

14    Q     Did they mention to you that Ms. Sutherland had been  
15    in a meeting with a Dr. Clore and Maureen McDonnell?

16    A     Not to my knowledge. I don't remember that, no.

17    Q     Did Mr. Williams say anything about being at the  
18    Mansion with Maureen McDonnell and anyone from the  
19    Virginia Health Department?

20    A     On that day?

21    Q     On that day.

22    A     No.

23    Q     So as far as you knew, they just showed up together  
24    for lunch.

25    A     For lunch.

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1 Q Then I think you described the lunch as a job  
2 negotiation. That was your takeaway.

3 A Yes.

4 Q And you said that, I think did you feel it was a  
5 little bit strange that you were there witnessing a job  
6 negotiation?

7 A Well, I was trying to figure out my purpose then at  
8 the lunch. Was I going to be the -- going to negotiate  
9 between the two.

10 Q You are a lobbyist, right?

11 A Correct.

12 Q And you had been hired by Mr. Williams to look into  
13 research opportunities for Anatabloc for Star Scientific,  
14 right?

15 A Star Scientific, right.

16 Q You are not an employment lawyer?

17 A No.

18 Q You don't negotiate employment agreements, right?

19 A Not normally. I have in the past.

20 Q You have in the past. But that was not something you  
21 had been hired, as far as you knew, by Mr. Williams to do?

22 A Correct.

23 Q So you were there feeling a little uncomfortable with  
24 the situation?

25 A As the lunch progressed and Ms. Sutherland was

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1 talking about her issues, yes.

2 Q Okay. You testified that she had mentioned that you  
3 rejected the idea that McGuireWoods could hire her. You  
4 testified about that.

5 A Right.

6 Q But that she raised the idea that he could be a  
7 client of hers at Benedetti & Farris?

8 A Correct.

9 Q And did she use the term "anchor client"?

10 A "A client" is all I remember.

11 Q "A client"?

12 A "A client." Yes.

13 Q And did you understand that her -- that this was  
14 something that was important to her, to go back to  
15 Benedetti & Farris?

16 A I understood that she wanted to leave and go back to  
17 Benedetti & Farris.

18 Q Okay. And you testified that Mr. Williams, it seemed  
19 that there was -- let me ask you this: Did it seem that  
20 they had an agreement in principle by the end of that  
21 lunch?

22 A I wasn't sure how to read it. I mean, she really  
23 wanted to leave, and he wanted to, seemed like he wanted  
24 to find her a place to go. And when we were leaving, he  
25 asked her to just send me a proposed contract.

**JERRY KILGORE - CROSS - BURCK**

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1 Q Okay. This is the Benedetti & Farris contract that  
2 you received in September?

3 A Correct.

4 Q Okay. Now, did the topic of the August event, the  
5 Mansion event, come up at that lunch?

6 A I do not remember that.

7 Q You don't remember that?

8 A No.

9 Q Do you recall at any point learning that Mary-Shea  
10 Sutherland was involved in helping set up the launch or  
11 lunch?

12 A Not until the press -- the call from Mr. Eige about  
13 the press issue.

14 Q So it was when you got the press releases from Mr.  
15 Eige, when he was asking you "What are we doing with this?  
16 This is not something we can do," that's when you learned  
17 that Mary-Shea Sutherland was involved in the lunch?

18 A I figured out she was involved with the lunch.

19 Q You figured out -- okay. So at this point you  
20 understood that she was involved with the lunch, and of  
21 course you knew that on August 1st, that she had been  
22 present for a job negotiation with Mr. Williams.

23 A Right.

24 Q Okay. Now, you testified that after the lunch  
25 occurred, and you received the Benedetti & Farris contract



**JERRY KILGORE - CROSS - BURCK**

2855

1 in early September, that thereafter, nothing ever happened  
2 between Mr. Williams and Ms. Sutherland, hiring her.

3 A Correct.

4 Q And you testified that Mr. Williams told you that he  
5 couldn't do that because it would upset the First Lady,  
6 couldn't hire Mary-Shea because it would upset the First  
7 Lady?

8 A His words, he wasn't going to poach on the First  
9 Lady.

10 Q Did Mr. Williams tell you that Mr. Perito had told  
11 him that hiring Mary-Shea Sutherland would present a  
12 conflict of interest?

13 A He did not tell me that.

14 Q He never said that?

15 A No.

16 Q Okay. So the only thing you understood was that he  
17 was worried about poaching; is that right?

18 A Correct.

19 Q Did you have any response to him being concerned  
20 about poaching?

21 A No, I just, it is his decision. It wasn't -- I had  
22 already forwarded on to Mr. Pokusa to deal with it.

23 Q Did you say anything to him about the poaching idea?  
24 When he said "poaching," did you say anything back?

25 A I did say, did reply that "It happens all the time.

**JERRY KILGORE - CROSS - BURCK**

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1 People leave state government for other jobs all the  
2 time." And I was always happy if somebody got a better  
3 job, better opportunity.

4 Q Right. Okay. By the way, did you ever hear Jonnie  
5 Williams say to Mary-Shea Sutherland in the August 1st  
6 lunch, or I guess any time after that, that she should not  
7 tell the Governor's Office that she was leaving until  
8 after the event? Do you remember hearing that?

9 A No, because I didn't know about the event.

10 Q Right. Until at the end of the month.

11 A Right.

12 Q Now, is it fair to say that your understanding was  
13 that Mary-Shea Sutherland was genuinely interested in  
14 leaving the Mansion and going to work for, in some  
15 capacity, for Mr. Williams or Star Scientific?

16 A Yes.

17 Q That her interest was genuine?

18 A Yes.

19 Q And you didn't think, putting you in September of  
20 2011, this is after you have learned that she is involved  
21 in the lunch, and also you know that she is negotiating a  
22 job with Mr. Williams, you didn't think that she was  
23 negotiating a job in order to help Mr. Williams with the  
24 launch, right?

25 A Didn't cross my mind. No.

**JERRY KILGORE - REDIRECT**

2857

1 Q Didn't cross your mind because you thought she had a  
2 genuine interest.

3 A Right.

4 MR. DRY: Asked and answered.

5 THE COURT: Sustained.

6 BY MR. BURCK:

7 Q After speaking to Mr. Williams, did you believe that  
8 his interest in her coming to work for him had been as  
9 genuine as her interest in working for him?

10 MR. DRY: Objection, relevance.

11 THE COURT: Sustained.

12 BY MR. BURCK:

13 Q It never occurred to you that, given what you  
14 understood about the conversation that you witnessed, and  
15 your discussions with Mr. Williams and your discussions  
16 with Mary-Shea Sutherland, you never thought that she was  
17 looking for some kind of quid pro quo? Is that right?

18 MR. DRY: Objection, relevance.

19 THE COURT: Sustained.

20 MR. BURCK: No further questions, Your Honor.

21 THE COURT: All right. Redirect?

22 REDIRECT EXAMINATION

23 BY MR. DRY:

24 Q Bring up Government's Exhibit 202, please. Can we go  
25 to the second page? I'm sorry, third page. Can we blow

**JERRY KILGORE - REDIRECT**

2858

1 up the second block, the September block? Sir, in this,  
2 you write "Schedule meeting with Governor McDonnell and  
3 Governor's policy staff, J. Williams J. Kilgore required,  
4 to request Governor to include state appropriation to UVA  
5 for specific research which could be eligible for match."  
6 Right?

7 A Right.

8 Q Would it be possible for you to have a meeting --

9 MR. BROWNLEE: Objection, calls for speculation.

10 THE COURT: Let him finish the question first.

11 BY MR. DRY:

12 Q In order to discuss with the Governor what state  
13 appropriation you would want and how much and what  
14 research it was related to, didn't UVA have to be on board  
15 before that meeting could occur?

16 MR. BURCK: Objection, Your Honor.

17 THE COURT: The "wouldn't it be possible"  
18 question is sustained.

19 BY MR. DRY:

20 Q What was the reason you didn't have the meeting with  
21 the Governor?

22 A Because UVA wasn't on board yet.

23 Q And without UVA being on board, did you know what to  
24 ask the Governor for? How much money, specifics?

25 A I did not. I did not know the specifics.

**JERRY KILGORE - REDIRECT**

2859

1 Q Now, regarding the line items in the state budget,  
2 the Governor can put the line items in; is that right?

3 A Correct.

4 Q But who ultimately has to approve it?

5 A The General Assembly.

6 Q Let's go to, I believe you were asked questions about  
7 this August 1st, 2011 lunch. And I believe Mr. Burck  
8 asked you about finding out that Ms. Sutherland was  
9 involved with the, I think he said "launch," and then  
10 corrected himself and said "lunch." Exactly what was your  
11 knowledge of Ms. Sutherland's involvement in the lunch?

12 A Not any until the August phone call, the late August  
13 phone call from Mr. Eige about the press statements.

14 Q In your conversations with Mr. Williams, I think you  
15 testified that there were several conversations about this  
16 lunch and event at the Mansion, right?

17 A Right.

18 Q At any point in that, did Mr. Williams ever, ever say  
19 that Mary-Shea Sutherland, it was her idea to have this  
20 event?

21 MR. BURCK: Objection, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: He did not.

24 BY MR. DRY:

25 Q And in those conversations, who was he telling you

**JERRY KILGORE - REDIRECT**

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1 supports his product?

2 A The Governor and the First Lady.

3 MR. DRY: Nothing further. Thank you, sir.

4 THE COURT: All right.

5 MR. BROWNLEE: Could we have just one question?

6 THE COURT: No, sir. All right. Thank you,  
7 sir. You may stand down.

8 (Witness stood aside.)

9 Call your next witness, please.

10 MS. ABER: Emily Rabbitt.

11 MR. ASBILL: May we approach for a minute?

12 THE COURT: Sure. Come on up.

13 (At Bench.)

14 MR. ASBILL: The 302's for this witness contain  
15 an incredible amount of hearsay and gratuitous personal  
16 opinion and irrelevant material about the kids and whether  
17 they were looking for gifts and things of that nature. I  
18 don't want to constantly be objecting in front of the jury  
19 about these issues. But it is certainly, based on the  
20 302, I'm really worried about that kind of information  
21 coming in constantly in this case.

22 THE COURT: I don't know how I can help you. I  
23 can't resolve your objection to any question until the  
24 question is asked. But I'm alerted.

25 MR. ASBILL: Thank you.

**EMILY RABBITT - DIRECT**

2861

1 (In Open Court.)

2 EMILY RABBITT,

3 called as a witness by and on behalf of the government,

4 having been first duly sworn by the Clerk, was examined

5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. ABER:

8 Q Good morning, Ms. Rabbitt. Please state and spell  
9 your name for the record.

10 A Emily Rabbitt, E-M-I-L-Y, R-A-B-B-I-T-T.

11 Q Did you previously work in the Administration of  
12 Governor Robert McDonnell?

13 A I did.

14 Q When did you start working there?

15 A I started in June, 2011 as Deputy Scheduler.

16 Q Did you subsequently gain an additional job?

17 A I did. In late November, early December, 2012, I  
18 became Deputy Director of Scheduling and Travel Aide.

19 Q Does that mean that you picked up where Adam Zubowsky  
20 left off?

21 A Yes.

22 Q You took over for him?

23 A Yes.

24 Q And so is it fair to say that you maintained your job  
25 as Deputy Director of Scheduling, but added additional

**EMILY RABBITT - DIRECT**

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1 duties as Travel Aide?

2 A Yes.

3 Q Okay. How long did you continue working for  
4 Mr. McDonnell?

5 A I stayed until the end of his Administration in  
6 January, 2014.

7 Q If you were the Deputy Scheduler, who was the  
8 Principal Scheduler?

9 A Katherine Harris.

10 Q Is it fair to say you started roughly when Monica  
11 Block was on her way out the door?

12 A Yeah. I think we had just a couple-day overlap.

13 Q In a very brief summary, can you tell the jury about  
14 what your job as Deputy Scheduler entailed?

15 A I was responsible for the briefing information for  
16 the Governor's briefing book. Every day we assembled a  
17 binder for him that had a divider for each event that he  
18 needed briefing information for, whether it was talking  
19 points or just background information on what he was  
20 supposed to be doing. So it was my responsibility to go  
21 in and work with the appropriate contacts to make sure he  
22 had the information he needed for the book.

23 Q If I can stop you there, Ms. Rabbitt, we will talk  
24 about that in a little bit.

25 A Okay.



## EMILY RABBITT - DIRECT

2863

1 Q Tell the jury how Mr. McDonnell's schedule was  
2 determined from your perspective. How did things get on  
3 the calendar?

4 A Well, I wasn't totally involved in the actual, like  
5 complete process, but basically we would receive  
6 scheduling requests. Our rule was they had to be in  
7 writing. And then we would determine if it would work  
8 with his schedule, and if it seemed like a good event for  
9 him to do, and then it would be put on a log for  
10 consideration with a larger group of members of his staff.

11 Q Who had final approval over Mr. McDonnell's schedule?

12 A He did.

13 Q Now, I'd like to talk about that briefing book you  
14 started to talk about. Let's bring up Government Exhibit  
15 230. This has been admitted, Your Honor. Okay. So  
16 assuming we are talking about a day like August 30th, what  
17 would be in the briefing book that you would provide to  
18 the Governor?

19 A Typically, let's see --

20 Q Would this document be in it?

21 A Yes, definitely. It would be the first page in the  
22 book.

23 Q Okay. What else would be in there?

24 A Based on the events, he had maybe something for WTOP  
25 if he needed it, or for the Legislator Call Time further

**EMILY RABBITT - DIRECT**

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1 down the page if he needed specific background information  
2 for that call.

3 Q If I could direct your attention, please, to Page 2  
4 of the exhibit. For example, the 12:35 event.

5 A Yes. We had a set briefing for the Executive Mansion  
6 events that he would have for each event.

7 Q Okay. So you would print all those Word documents  
8 and the Excel document out and put it in the binder?

9 A Uh-huh.

10 Q Were you able to leave for the day if the binder was  
11 not complete?

12 A No.

13 Q So you had to stay until it was done?

14 A I guess I could have left, but I chose to see it  
15 through to the end. It was my job to complete it.

16 Q I understand. So Government Exhibit 234, please,  
17 that's been admitted. Is this the sort of item that you  
18 would include in the binder as the specifics of an event?

19 A Yes.

20 Q Okay. How did you get -- you can take that down.  
21 How did you get this binder to the Governor?

22 A Every night I would drop it off at the guardhouse of  
23 the Executive Mansion, and I would give it to a member of  
24 the Capitol Police, who would then put it on the elevator  
25 for him to see.

**EMILY RABBITT - DIRECT**

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1 Q Based on your experience, when did Mr. McDonnell  
2 review his briefing book?

3 A It depended. He had the opportunity to see it the  
4 night before, but in some instances he was just reviewing  
5 what he needed to be doing before he would go into an  
6 event. So --

7 Q Now, I'd like to talk a little bit more about the  
8 e-mail schedules. Let's bring up not-admitted Government  
9 Exhibit 291, please. Now, the jury has seen quite a few  
10 of these, but can you tell them more precisely when they  
11 were sent out, to whom they were sent out, and why they  
12 were sent out?

13 A It was -- the schedule was sent out to the Governor's  
14 security detail, the Executive Protection Unit, as well as  
15 members of his senior staff.

16 Q Let me stop you there.

17 MS. ABER: I'd like to move 291 into evidence,  
18 please.

19 THE COURT: It will be admitted.

20 BY MS. ABER:

21 Q So it went to those folks. When was it sent out?

22 A Typically at the end of the day. Sometimes we were  
23 waiting for things to be finalized, but between six, any  
24 time after six p.m., really, I would say.

25 Q Even though this e-mail shows To: Katherine Harris

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1 From: Katherine Harris, are there other folks who are  
2 blind carbon copied on this?

3 A Yes.

4 Q Whose responsibility was it to send out the final  
5 scheduling e-mail?

6 A Katherine's.

7 Q Did there come a point in time when you took that  
8 over?

9 A Katherine left the Administration in December of 2013  
10 and I just assumed that duty as well.

11 Q Now, did you rely on these schedules from your  
12 perspective to determine where Mr. McDonnell was located  
13 at a given time?

14 A Yes.

15 Q And did Mr. McDonnell largely follow the schedules?

16 A Yes.

17 Q Now, for the sake of moving this along, I'm going to  
18 hand you a stack of schedules that are Government Exhibit  
19 552, 553, 305, 310, 317, and 378. Have you had an  
20 opportunity to take a look at those before coming to  
21 court?

22 A Yes.

23 Q Okay. Are they all schedules from various dates in  
24 the Administration?

25 A Yes.

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1 MS. ABER: I'd like to move those into evidence,  
2 that being 552, 553, 305, 310, 317, and 378, please.

3 THE COURT: They will be admitted.

4 BY MS. ABER:

5 Q Okay. Now, I'd like to direct your attention back to  
6 Government Exhibit 234. Do you remember anything about  
7 this particular lunch with Virginia researchers?

8 A Well, just that I remember when I went to go get the  
9 briefing information for it, because each morning I would  
10 touch base with Katherine about what events would need  
11 information, what the status of things was, because she  
12 had worked to get it on the calendar. She, I remember  
13 that I went and I said, "Sarah, what about the briefing  
14 form?" And then I had also heard there might be a press  
15 release involved with the event. And I would typically,  
16 if an event had a press release, I liked to include it  
17 just as additional background information for the Governor  
18 to make sure he had everything. But I remember hearing  
19 that there was some, as best I can recall, that there was  
20 some issue with the press release, so I was like, okay, I  
21 won't worry about that until I hear more about it.

22 Q Did you attend this event?

23 A No.

24 Q Were you aware in general that before this event, a  
25 couple months before, that Mr. Jonnie Williams had given

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1 some money, \$50,000, to Ms. McDonnell?

2 MR. ASBILL: Objection.

3 MS. ABER: Your Honor, she worked in the  
4 Administration. It is relevant to know whether she was  
5 aware of the loans that Mr. McDonnell was providing.

6 THE COURT: Go ahead and answer.

7 THE WITNESS: I was not aware of it.

8 BY MS. ABER:

9 Q Is it fair to say you didn't know about any of these  
10 gifts or loans until after the media stories broke in  
11 2013?

12 A Yeah. I mean, I think, I guess at that point in time  
13 I had known about like flights maybe and that kind of  
14 thing had been donated.

15 Q But not anything other than flights?

16 A Yeah, I don't think so. As best I can recall.

17 Q Okay. You can take that down, please. I'd like to  
18 bring up Government Exhibit 627, please. That has not  
19 been admitted. Is this an e-mail exchange between you and  
20 Adam Zubowsky in January of 2013?

21 A Yes.

22 MR. ASBILL: I object to this.

23 THE COURT: Come on up.

24 (At Bench.)

25 THE COURT: So state your objection.

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1 MR. ASBILL: It is not relevant. It is  
2 extraordinarily prejudicial.

3 MS. ABER: Your Honor, the defendants have made  
4 an issue about Mr. McDonnell's thriftiness and suggesting  
5 that Mr. Williams foisted these gifts upon him. The  
6 government would like to introduce this evidence to show  
7 that he was willing to accept other folks' gifts and other  
8 free items if available.

9 THE COURT: This is an e-mail from?

10 MS. ABER: From Mr. -- it is a chain between Mr.  
11 Zubowsky and Ms. Rabbitt in January of 2013. The witness  
12 is on it.

13 THE COURT: Okay. So how does the Governor fit  
14 into this?

15 MS. ABER: The e-mail makes reference to  
16 Zubowsky's prior experiences as Travel Aide, the new  
17 position that Ms. Rabbitt assumed, and his practice was to  
18 seek out free golf and free vacations for the Governor.

19 THE COURT: Not through this witness. The  
20 objection is sustained.

21 (In Open Court.)

22 BY MS. ABER:

23 Q Okay. Moving along. Let's look at Government  
24 Exhibit 458, please, which has not been admitted. Is this  
25 a January of 2013 exchange between you and Katherine

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1 Harris?

2 A Uh-huh.

3 Q You have to say yes.

4 A I'm sorry, yes.

5 MS. ABER: Your Honor, I would move Government  
6 Exhibit 458 into evidence, please.

7 THE COURT: It will be admitted.

8 BY MS. ABER:

9 Q Is it fair to say this e-mail pertains to a P.O. Box?

10 A Yes.

11 Q Okay. And in the top part there, you write to  
12 Ms. Harris that "Apparently he has a P.O. Box, a personal  
13 P.O. Box that Pam checks." And that lists P.O. Box 406;  
14 is that right?

15 A Yes.

16 Q Who is the "he" in that sentence?

17 A The Governor.

18 MS. ABER: I'd like to bring up already-admitted  
19 452, please.

20 BY MS. ABER:

21 Q Ms. Rabbitt, is that the same P.O. Box number on the  
22 top left there that we just saw in Government Exhibit 458?

23 A Yes.

24 Q Okay. Thank you. You can take that down. We would  
25 like to change subjects entirely, directing your attention



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1 to February of 2013. So at that point, what job did you  
2 have?

3 A I was Deputy Director of Scheduling as well as Travel  
4 Aide at that time.

5 Q And as Travel Aide, did you accompany Mr. McDonnell  
6 to various events?

7 A Yes.

8 Q Did you attend an event with Mr. McDonnell at the  
9 SunTrust Building here in Richmond?

10 A Yes.

11 Q Do you remember roughly when in February that was?

12 A I would say, I don't remember the exact date, but I  
13 think early February.

14 Q And what was this particular event at the SunTrust  
15 Building?

16 A I think we went to several, but it was either an  
17 event for, I think it was an event for the Thomas  
18 Jefferson Institute. I believe that was the one. We went  
19 to several in a row there, but I think that might have  
20 been the one.

21 Q When you were finished with the event, did you exit  
22 via elevator?

23 A Yes.

24 Q Who was in the elevator with you?

25 A Myself, the Governor, First Lady, a member of EPU,

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1 and a security guard from the SunTrust Building.

2 Q While you were in the elevator, did Mr. McDonnell say  
3 anything in particular that stood out to you?

4 A I did hear him, I believe I may have heard him say  
5 something about stock with the First Lady. But I didn't  
6 hear much beyond that.

7 Q Did Mr. McDonnell remove anything from his pocket  
8 when making this statement?

9 A Yes. It appeared he had taken something from his  
10 bottle and was about to take something with it, took  
11 something from his pocket and was about to take something.

12 Q Could you identify what item he pulled out of his  
13 pocket?

14 A I'm assuming it was --

15 THE COURT: Sustained.

16 THE WITNESS: I think it might have been  
17 Anatabloc, but I can't say with certainty.

18 BY MS. ABER:

19 Q To whom was Mr. McDonnell making this statement?

20 A The First Lady.

21 Q Did Ms. McDonnell say anything in return?

22 A I think she -- I'm not entirely certain what she  
23 said. She may have said, "Okay."

24 MR. HAUSS: Objection, Your Honor.

25 THE COURT: Sustained. She doesn't know what

**EMILY RABBITT - DIRECT**

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1 she said.

2 BY MS. ABER:

3 Q You can only say what you know.

4 A I'm sorry.

5 Q Let's change subjects again. Let's talk about in  
6 general your experiences in the Administration. Okay?

7 A Yes.

8 Q How common was it for the Governor to have meetings  
9 on his schedule?

10 A Very common.

11 Q Did any of those meetings pertain to business and  
12 economic development?

13 A Yes.

14 Q In your experience, did Administration officials  
15 other than Mr. McDonnell ever attend those meetings?

16 A Yes.

17 Q How common was it for you to participate in planning  
18 the logistics of those meetings?

19 A Fairly common, especially with the briefing  
20 information on the back end.

21 Q How common was it, if you know, for other  
22 Administration officials like Cabinet Secretaries or  
23 Deputies to have meetings on their schedules?

24 A Common. Very common, yes.

25 Q How common was it for you to facilitate in some way

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1 getting those meetings on those Cabinet Secretaries'  
2 schedules?

3 A Common. Not incredibly common, but yeah, pretty  
4 common, I guess. I would get, if a request came to me and  
5 the Governor was not able to take the meeting for  
6 scheduling purposes, sometimes we would say, "You can meet  
7 with the Cabinet member on his behalf, on behalf of the  
8 Governor."

9 MS. ABER: One moment, please, Your Honor.

10 (Counsel conferring with co-counsel.)

11 MS. ABER: I have no further questions.

12 THE COURT: Cross?

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1 MR. ASBILL: Court's indulgence one second,  
2 please.

3 **CROSS-EXAMINATION**

4 BY MR. ASBILL:

5 Q Good morning. How are you?

6 A Good.

7 Q You've talked a little bit about the Governor's  
8 schedule and how he would learn about his schedule. Isn't  
9 it true that he often didn't know what to expect on his  
10 schedule or didn't know what his exact schedule was going  
11 to be until the morning of the day that was scheduled?

12 MS. ABER: Objection. Speculation.

13 THE COURT: No. She can answer.

14 A I -- it just depended when he would look at his book.  
15 He received it the night before, but I'm sure some days he  
16 wouldn't look at it until the day of.

17 BY MR. ASBILL:

18 Q And would there be any possible changes overnight or  
19 early morning on his schedule?

20 A Yeah. Certainly.

21 Q Okay. And is it fair to say that many meetings for  
22 the Governor were set without somebody personally asking  
23 him whether or not it was okay with him to set the  
24 meeting?

25 A I do not know.

1 Q All right. And during the day, would schedules often  
2 get changed and substitutions on the schedule be made?

3 A Yes.

4 Q Okay. With respect to the number of meetings that  
5 the Governor had while you were in this job, did you ever  
6 estimate that number?

7 A No.

8 Q Do you have any idea how many hours he worked during  
9 the day or during a year?

10 A He worked very long days. I do know that.

11 Q Would you have any idea whether -- how many hundreds,  
12 thousands of meetings he might have had during the four  
13 years?

14 MS. ABER: Objection. Asked and answered.

15 THE COURT: Overruled.

16 BY THE COURT:

17 Q He's asking you if you know a number, the number of  
18 meetings he might have had.

19 A I --

20 Q If you have any idea.

21 A No, I do not.

22 BY MR. ASBILL:

23 Q Okay. With respect to your testimony about the P.O.  
24 Box, do you know the details of that, where the box was  
25 and when it was opened and why it was open?

1 A Not -- no, not with certainty.

2 Q Okay.

3 MR. ASBILL: I have no further questions.

4 THE COURT: All right.

5 Anything for Ms. McDonnell?

6 MR. HAUSS: Very briefly, Your Honor.

7 **CROSS-EXAMINATION**

8 BY MR. HAUSS:

9 Q Is it fair to say that Mr. McDonnell had a very busy  
10 schedule?

11 A Yes.

12 Q Frequently would work 14, 15, 16-hour days?

13 A Yes.

14 Q Was it common for Mr. McDonnell to travel?

15 A Yes.

16 Q And would he often travel without Ms. McDonnell?

17 A Yes.

18 MR. HAUSS: Nothing further, Your Honor.

19 THE COURT: Any redirect?

20 MS. ABER: No, Your Honor.

21 THE COURT: All right. Thank you, ma'am. You  
22 may stand down.

23 (Witness stood aside.)

24 THE COURT: Call your next witness, please.

25 MS. ABER: One moment, Your Honor. I'm sorry.

1 MR. DRY: Can we approach, Your Honor?

2 (At Bench.)

3 MR. DRY: Your Honor, we were told that  
4 Kilgore's cross would take an hour and a half for  
5 Mr. Asbill and a half hour for Mr. Burck. Obviously, that  
6 didn't happen. We can put -- we have a witness, Hagan,  
7 Special Agent Hagan, who's ready to go. That would be out  
8 of the order that we'd given it to you. So we're  
9 basically --

10 MR. FAULCONER: Vetrovec and Bridge are on their  
11 way, but they're not here quite yet.

12 THE COURT: Why don't we take our 15 minutes,  
13 and we'll see where we're at.

14 MR. FAULCONER: Thank you, Your Honor.

15 (In Open Court.)

16 THE COURT: All right. We are going to go ahead  
17 and take 15 minutes now.

18 (The jury left the courtroom.)

19 (Recess taken from 11:17 a.m. until 11:36 a.m.)

20 THE COURT: All right. Let's bring in the jury,  
21 please.

22 (The jury entered the courtroom.)

23 THE COURT: All right. Call your next witness,  
24 please.

25 MR. FAULCONER: Yes, Your Honor. The



1 United States calls Dr. George Vetrovec.

2 **DR. GEORGE VETROVEC,**

3 called as a witness by and on behalf of the government,

4 having been first duly sworn by the Clerk, was examined

5 and testified as follows:

6 MR. FAULCONER: May I inquire, Your Honor?

7 THE COURT: Go ahead.

8 **DIRECT EXAMINATION**

9 BY MR. FAULCONER:

10 Q Good morning.

11 A Good morning.

12 Q Could you please state your name, and spell your last  
13 for the court reporter.

14 A George Wayne Vetrovec, V, like in Victor, E-T-R-O, V  
15 again like in Victor, E like in Edward, C like in cat.

16 Q What city do you currently live in Dr. Vetrovec?

17 A Richmond, Virginia.

18 Q And what do you currently do for a living?

19 A I am a cardiologist at VCU Medical Center.

20 Q How long have you worked at VCU?

21 A Since -- I've been on the faculty since July of 1976.

22 Q And what is your current title at VCU?

23 A Professor of Medicine, and I direct the adult  
24 catheterization laboratory.

25 Q What sort of educational background do you have?

1 A I have an undergraduate degree from the University of  
2 Virginia and a medical degree from the University of  
3 Virginia, postgraduate medical training at VCU Medical  
4 Center in internal medicine and cardiology.

5 Q And how do your day-to-day duties break down in terms  
6 of patients, research, admin stuff?

7 A Well, the majority of my work is patient care, but an  
8 awful lot is also teaching. Now, when I say that, I think  
9 you have to understand that our teaching is more  
10 apprentice, on-job training. So much of the clinical work  
11 I do is in conjunction with the trainee who's learning to  
12 do procedures that I do and so forth. So it's hard to  
13 separate out entirely teaching and patient care. And then  
14 I do probably 10 percent research, and I do some  
15 administration.

16 Q Now, as a VCU employee, do you receive certain  
17 e-mails that are addressed to all state employees?

18 A Yes, I do.

19 Q And do those include e-mails from whoever is Governor  
20 at the time?

21 A Yes, I do.

22 Q I'd like to show you what's been already admitted as  
23 Exhibit 271. And zooming in on the top there, does this  
24 look like one of those types of e-mails that you would  
25 generally get?

1 A Yes.

2 MR. FAULCONER: We can take that down.

3 BY MR. FAULCONER:

4 Q All right. Now, I'd like to shift gears and talk  
5 about an individual named Jonnie Williams, and I'd like to  
6 show you what's been marked for identification as Exhibit  
7 248. Zooming in on that top portion there, does that  
8 appear to be a calendar entry to you for a meeting with  
9 Jonnie Williams and yourself?

10 A Yes, it does.

11 MR. FAULCONER: Your Honor, we'd offer Exhibit  
12 248 into evidence.

13 THE COURT: It will be admitted.

14 BY MR. FAULCONER:

15 Q All right. Now, Dr. Vetrovec, I see that this says,  
16 "Jonnie Williams, Founder of Visx Laser Vision, CEO of  
17 Star Scientific." And the date of this dated October 3rd,  
18 2011. And it says, "Location: Lobby of Gateway."

19 Could you orient us about sort of how this meeting  
20 came to be and got to your attention?

21 A Yes. It entirely came through scheduling by my  
22 assistant at the time, Cindy Dutilly, who was contacted by  
23 Mr. Williams, who said he had a new drug, he needed to  
24 talk to me about it and potential studies. And that was  
25 what the crux of the meeting was. But I never talked to

1 him before I actually met with him at this time.

2 Q In that year at least?

3 A That's right.

4 Q Now, before 2011, before this meeting got put on your  
5 calendar, had you heard of the compound anatabine?

6 A No.

7 Q Had you heard of Anatabloc?

8 A No.

9 Q But had you met Mr. Williams prior to this meeting?

10 A Yes.

11 Q How long before it, approximately, had you met him?

12 A A number of years. Maybe ten. But that's a guess.

13 He -- the first time I met him, he brought a patient to my  
14 office that was scheduled, but he came with the patient  
15 and introduced the patient to me not as a family care  
16 member or anything like that. He simply introduced the  
17 patient, said he was a very important person to him and he  
18 wanted me to take care of him, and then he just -- he  
19 left. So that's the first time I saw Jonnie.

20 Q And was there one interim time between the first time  
21 you saw him and then this meeting?

22 A I saw him some years later, it's like three or four  
23 or five, in the Atlanta airport one evening. We were  
24 waiting for a flight to Richmond, and he reintroduced  
25 himself. I, frankly, wouldn't have probably remembered

1 him. Reintroduced himself about the patient and so forth.

2 And so I saw him in the Atlanta airport.

3 Q Now, on this particular occasion in October of 2011,  
4 did you ultimately meet Mr. Williams at the lobby of the  
5 Gateway building?

6 A I did.

7 Q And just for anybody who's not from Richmond, do you  
8 know where the Gateway building is?

9 A The Gateway building is meant to be the main entrance  
10 into the hospital for inpatient and outpatient activities.  
11 It fronts onto Marshall Street, approximately where 12th  
12 Street intersects.

13 Q Do we need to move that microphone?

14 A Am I too close to it?

15 Q I think if you sit back just a little bit. Thanks.

16 All right. So that's -- is that on -- you said the  
17 main entrance to the hospital. Is that the VCU Medical  
18 Center?

19 A Correct.

20 Q Now, when you met Mr. Williams at that location,  
21 where did you go from there?

22 A Well, Mr. Williams said to me, "How much time do you  
23 have?" And I said, "Thirty minutes." And he said, "Make  
24 it 45." He said, "The Governor's wife makes really good  
25 cookies, and I asked her to make us some cookies. We're

1 going over there."

2 So I got in his car, and we drove over to the  
3 Mansion.

4 Q And before that time in 2011, had you been to the  
5 Governor's Mansion before?

6 A Not that I can recall.

7 Q And do you recall what kind of car he was driving?

8 A I don't recall the car, and I hesitate to say, but  
9 it -- it is fair to say that I couldn't open the door. It  
10 was sort of embarrassing. So I --

11 Q Was that because it was an old car or --

12 A No. It was a different kind of lock that I wasn't  
13 used to.

14 Q Okay. Now, during your ride over from the Gateway  
15 building to the Governor's Mansion, did Mr. Williams talk  
16 about this new product that he had?

17 A Yes. He did talk about the drug Anatabloc and what  
18 its potential, he thought, was. And he said it, you know,  
19 was just still sort of in its infancy. That's my term,  
20 but it's new. He was excited to have physicians get  
21 involved and perhaps do some studies with it.

22 Q And did he tell you that he was interested in you  
23 potentially being one of those physicians?

24 A I can't remember, but that certainly, over time,  
25 became clear that he wanted me involved if I was

1 interested in doing studies with it.

2 Q And did he say anything about the relationship  
3 between the product and tobacco?

4 A Yes, he did.

5 Q Do you recall what he said?

6 A Well, he basically said that if -- I think the  
7 background was there were many -- obviously, a lot of bad  
8 things related to tobacco, but there were some conditions,  
9 medical conditions where patients maybe did better if they  
10 had smoked at some time or had had tobacco contact, and  
11 that what he was doing was trying to use -- utilize the  
12 positive or good agents out of the tobacco for potentially  
13 medical use.

14 Q Now, when you got to the Governor's Mansion, do you  
15 recall where Mr. Williams parked?

16 A He parked on the lawn of the Governor's Mansion.

17 Q And once he parked the car, where did you guys to go?

18 A We went into the Mansion.

19 Q And do you recall what sort of event was going on, if  
20 any, out on the lawn.

21 A Yes. This was a large event there, which was -- it  
22 turned out to be the official state recognition, I guess  
23 is the best description, for Steven Spielberg when he was  
24 here for the movie Lincoln.

25 Q And did you actually meet Mr. Spielberg at the event?

1 A I did.

2 Q And can you describe -- I think you said earlier you  
3 only had 45 minutes. Could you describe how that  
4 happened?

5 A Well, after the official introductions and so forth,  
6 I said to Mr. Williams that I needed to get back, and he  
7 said, "Wait a minute. Before you go," he said, "let me  
8 get you to meet Mr. Spielberg." And he spoke to the  
9 Governor's wife, who took me over and introduced me to  
10 Mr. Spielberg.

11 Q Now, was there a line of people or how exactly did it  
12 work for you to walk --

13 A It looked like -- as I recall, it looked like there  
14 was starting to be sort of a receiving line, if you will,  
15 that was gathering. And she just sort of took me to the  
16 head of that, and I spoke to Mr. Spielberg for a few  
17 minutes.

18 Q Now, just to be clear, do you recall whether you  
19 spoke to Mr. McDonnell at that event?

20 A I do not recall speaking to him at all.

21 Q Now, after -- or as you left the event and got back  
22 in Mr. Williams' car, do you recall whether he continued  
23 to talk about this product that he had?

24 A He did.

25 Q And coming away from the event, what was sort of your



1 impression of why you had gone to this thing?

2 A I thought it was someone who was using an opportunity  
3 that -- an event that was going on to help enhance my  
4 interest in potentially being involved in the product.

5 Q And when you say "someone," do you mean Mr. Williams?

6 A Mr. Williams.

7 Q Now, after this meeting, or after this going over to  
8 the Mansion, sorry, did you tell any of your colleagues or  
9 anybody about sort of what had happened?

10 A Of course.

11 Q What did you tell them, in general?

12 A I just told them, "You can't imagine. This was the  
13 most unusual event that you can imagine. You just never  
14 know what's going to happen every morning when you get  
15 up."

16 Q And do you recall ever discussing it with a colleague  
17 of doctors named Dr. Abbate?

18 A Now, that was a little bit different approach. The  
19 reason I spoke with Dr. Abbate, he's a junior faculty  
20 member at Virginia Commonwealth University in cardiology.  
21 He is originally from Italy, Italian trained. An  
22 excellent young scientist. And I actually talked to him  
23 about, "Let's look at this and think about whether this is  
24 worth exploring as a new entity and new drug."

25 Q Got it. Now, after your visit to the Mansion, did

1 you also attend an event related to Star Scientific or its  
2 company Rock Creek Pharmaceuticals later in October at the  
3 Westin Hotel?

4 A I can't confirm the date, but it was after that that  
5 I did attend an event at the Westin Hotel, which was  
6 sponsored by, as you say, Rock Creek Pharmaceuticals or  
7 Star Scientific. It's unclear to me.

8 Q All right. I'd like to show you what's been marked  
9 for identification as Exhibit 251. And zooming in on  
10 this, is this an e-mail chain between someone named  
11 Caroline Birgmann and it looks like yourself; is that  
12 right?

13 A Yes. That's certainly my name.

14 Q And does this appear to be dated October 18th, 2011,  
15 at least the top e-mail?

16 A Yes.

17 Q Does this appear to be discussing this event that --

18 A I believe so.

19 MR. FAULCONER: Your Honor, we'd offer Exhibit  
20 251 into evidence.

21 THE COURT: It will be admitted.

22 BY MR. FAULCONER:

23 Q Now, where it says there at the top, "I plan to  
24 attend and am bringing Dr. Antonio Abbate with me.  
25 Thanks. Looking forward to event," is that the e-mail

1 that you wrote here?

2 A I assume that's mine.

3 Q And do you recall if Dr. Abbate also went to the  
4 event?

5 A He did.

6 MR. FAULCONER: We can take that down.

7 BY MR. FAULCONER:

8 Q Now, when you went to the event, do you recall  
9 whether you were there the whole time or were you only  
10 there for part of it?

11 A My recollection is is I got there somewhat late, as  
12 the program was starting.

13 Q And what do you recall about the part of the event  
14 that you were there for?

15 A There were -- I recall, really, the science of it.  
16 And there were at least two or three lectures. One  
17 specifically talking about the animal studies that had  
18 been done with this drug in patient or animal models of  
19 Alzheimer's. There were two or three, quote, scientific  
20 presentations that were there. And that's what I  
21 basically remember from it.

22 Q All right. Now, I'd like to move forward from  
23 October to the end of February of 2012. And I'd like to  
24 show you what's been marked for identification as Exhibit  
25 342. And, Dr. Vetovec, does this appear to be a calendar

1 entry for an event that you attend at the Executive  
2 Mansion on February 29th, 2012?

3 A Yes. I went to such an event. I can't recall the  
4 specific date. But the -- in that time frame, yes.

5 Q Okay. In the late February time frame?

6 A Yes, sir.

7 MR. FAULCONER: Your Honor, we'd offer Exhibit  
8 342 into evidence.

9 THE COURT: It will be admitted.

10 BY MR. FAULCONER:

11 Q All right. Now, Dr. Vetrovec, you said that you  
12 attended an event at the Executive Mansion in February of  
13 2012; is that right?

14 A Correct.

15 Q When you arrived at that event, or at some point when  
16 you were there, did you meet Mr. McDonnell?

17 A Yes, I did.

18 Q And do you recall what you spoke about with him?

19 A Yes. The conversation turned around -- at that time  
20 frame, there was some issue going on in the legislature  
21 relative to his getting passed, his budget. And he spoke  
22 to myself, and there was someone else, I can't remember  
23 who it was, about he would like to -- he said, you know,  
24 "I will need your support with this perhaps, and I hope  
25 you would be willing to come down and help by supporting

1 it because it could be important to your institution." It  
2 was the entire state budget that he was referring to.

3 Q And just to be clear, in that conversation with  
4 Mr. McDonnell, did Mr. Williams' name come up?

5 A No, not that I can recall at all.

6 Q But at that event at the Mansion, did you see  
7 Mr. Williams there?

8 A Yes. He was there.

9 Q And could you tell us what you spoke about with  
10 Mr. Williams when you were at that event?

11 A I can't remember specifically, but we talked about  
12 potential studies with the drug. He was still saying,  
13 "Are you" -- "are you interested in doing some studies?"

14 Q And do you ever recall Mr. Williams saying anything  
15 specifically about Virginia schools doing a study, as  
16 opposed to other types of schools?

17 A His only reference at one time, and I don't know if  
18 it was that night or at some point, said, you know, this  
19 is a Virginia drug, and it's sort of disappointing that I  
20 don't have better scientific support coming out of the  
21 schools here. I have somebody doing studies at Johns  
22 Hopkins as a -- and, you know, I'd like to see more in the  
23 Commonwealth."

24 Q And do you recall whether Mr. Williams ever said  
25 anything to you about potential state funding for studies

1 of his product?

2 A You know, I don't recall anything about the source of  
3 funding. I recall -- and the fact was that I never got  
4 far enough with developing a research protocol to  
5 basically say to him, "Okay. Where do I apply for money  
6 for this? Is it through your company," et cetera. So I  
7 really never had that discussion with him because I never  
8 got that far research wise.

9 Q Do you ever remember him saying anything about it,  
10 though?

11 A I don't clearly recall anything.

12 Q All right. Now, I'd like to show you, sorry, what's  
13 been already admitted as Exhibit 309. Now, Dr. Vetrovec,  
14 is this a -- just zooming in on the list towards the  
15 bottom, sorry, is this a list of names and individuals  
16 that you've had a chance to review before coming into  
17 court?

18 A I believe you've shown me this before.

19 Q And we've heard some testimony about these  
20 individuals not being invited to that event. Do you  
21 recognize -- I guess maybe it's easiest to put this way.  
22 Are there any companies on this list that you don't  
23 recognize?

24 A I don't know what AmeriHealth Mercy or CGI are, or  
25 Generic Pharmaceutical. There are some of these I don't

1 know what they are. Majority of them I do recognize as --  
2 such as Amgen and Sanofi-Aventis, Medtronic, Merck, so  
3 forth.

4 Q And the ones that you do recognize, are those ones  
5 that you interact with as a cardiologist fairly regularly?

6 A Yes.

7 Q Other --

8 A In general.

9 Q Oh, sorry.

10 A In general, yes.

11 Q And other than the discussions that we've been  
12 talking about with Mr. Williams, had you interacted with  
13 Star Scientific before 2011 in your practice?

14 A No.

15 Q And at the time of the event that you went to in late  
16 February of 2012, were you aware of any conversations  
17 between Mr. McDonnell and Mr. Williams about any financial  
18 transactions between the two of them?

19 A No.

20 Q All right. I'd like to shift gears just a little bit  
21 forward and talk about early March of 2012. And I'd like  
22 to show you what has been either marked or admitted as  
23 Exhibit 353.

24 MR. STARNES: It's not admitted.

25 BY MR. FAULCONER:

1 Q All right. What's been marked as Exhibit 353.

2 Dr. Vetrovec, is this an e-mail from Dr. Abbate to an  
3 individual named John Clore, with a blind carbon copy to  
4 yourself?

5 A Yes.

6 Q And is this dated March 7th of 2012?

7 A No. It looks like it's March 3rd -- March 3rd.

8 Q I'm sorry. I guess in the upper right-hand corner  
9 does it say 3/7/2012?

10 A Okay. Okay. That's correct.

11 Q Okay.

12 MR. FAULCONER: Your Honor, we'd offer Exhibit  
13 353 into evidence.

14 THE COURT: It will be admitted.

15 BY MR. FAULCONER:

16 Q All right. Now, you've told us who Dr. Abbate is.  
17 Can you tell us who Dr. Clore is?

18 A Dr. Clore is head of what I guess would be called the  
19 Clinical Research Center at VCU and is significantly  
20 involved in clinical research.

21 Q And I see there on -- it looks like the fourth line,  
22 it says, "George Vetrovec and I were exploring the use of  
23 anatabine in patients with CAD or CHF."

24 At this time, were you and Dr. Abbate still  
25 discussing the possibility of doing some studies on



1 anatabine?

2 A Yes. We had on and off. We sort of had outlined, I  
3 don't know if written, but verbally and in our  
4 discussions, a list of potential studies that might be of  
5 interest to do with this compound. We were operating on  
6 the idea that it had anti-inflammatory properties based on  
7 some of the science that had been -- has been written  
8 about it.

9 Q Got it. Well, I'd like to fast-forward now to May of  
10 2012 and show you what's been marked for identification as  
11 Exhibit 391. And, Dr. Vetovec, is this a -- it looks  
12 like a page to you from somebody on your staff at VCU?

13 A Yes. Michele is an assistant in the general cath  
14 office staff pool.

15 Q And is this dated, it looks like May 30th, 2012?

16 A Yes.

17 MR. FAULCONER: Your Honor, we'd offer Exhibit  
18 391 into evidence.

19 THE COURT: It will be admitted.

20 BY MR. FAULCONER:

21 Q Now, Dr. Vetovec, do you recall being alerted that  
22 Mr. Williams had reached out to you again in May of 2012?

23 A I do not recall this specifically.

24 Q Okay. But do you recall at some point later in that  
25 year, late 2012, Mr. Williams reaching out to you?

1 A Yes. I mean, I -- I don't know the specific dates,  
2 but I know he continued to have intermittent contact with  
3 me about potentially doing studies with the drug.

4 Q And did that extend at least sometime into sort of  
5 late spring, summer of 2012?

6 A I believe so. I think in addition to that, because  
7 we had not offered an individual proposal, he had some  
8 type of one or more center studies going, and he had also  
9 asked if we wanted to join an existing group of centers.  
10 I'm saying group. I don't really recall how many or what  
11 that was, but to be a multicenter, part of a multicenter  
12 experience with the drug.

13 Q All right. One moment.

14 MR. FAULCONER: One moment, Your Honor.

15 (Counsel conferring with co-counsel.)

16 BY MR. FAULCONER:

17 Q Dr. Vetovec, it says on here, "Personal call Jonnie  
18 Williams," and it gives a phone number. Do you recall  
19 having a phone conversation sometime in this general time  
20 frame with Mr. Williams?

21 A I must say I don't. I know I had phone calls with  
22 him, but I can't pinpoint it to the time.

23 Q And when you did have phone calls with him, would he  
24 generally be bringing up the studies that he was talking  
25 about?

1 A Yes.

2 Q Is it fair to say -- do you recall a conversation  
3 with him in which he wasn't referring to the studies?

4 A No. I don't recall any.

5 MR. FAULCONER: No further questions, Your  
6 Honor.

7 THE COURT: All right.  
8 Cross?

9 **CROSS-EXAMINATION**

10 BY MR. ASBILL:

11 Q Good morning, Doctor. How are you?

12 A Thank you.

13 Q My name is Hank Asbill, and I represent Bob  
14 McDonnell. You briefly described your credentials. You  
15 said you were at VCU, and you're a cardiologist, and  
16 you're on the faculty; is that correct?

17 A Correct.

18 Q And you said you -- am I correct in thinking that  
19 you're also an internist, in addition to being a  
20 cardiologist?

21 A Well, my credentialing is -- to become a  
22 cardiologist, you have to be an internist, and then you do  
23 specialized training in cardiology.

24 So I am board certified in internal medicine,  
25 cardiology, and interventional cardiology, which is

1 putting in stents and the like. But I don't really  
2 practice internal medicine except as it interrelates with  
3 cardiology.

4 Q All right. And you said you're the head of the cath  
5 lab at VCU; is that correct?

6 A Right.

7 Q And are you -- aside from being board certified, are  
8 you on any boards or do you hold any positions within  
9 medical societies?

10 A Yes. I have, over the years, been on the National  
11 Board of the American Heart Association, the Board of  
12 Trustees of the American College of Cardiology. Been on  
13 the Board of Trustees of the Society for Cardiac  
14 Angiography and Interventions. Been President of that.  
15 President of several other organizations.

16 Q All right. Now, government counsel put up Exhibit  
17 271.

18 MR. ASBILL: Could we bring that back up,  
19 please.

20 BY MR. ASBILL:

21 Q This, I believe you described, is a -- is a general  
22 e-mail you received from my client?

23 A Well, to qualify that appropriately, I -- the  
24 question was do I receive these, and I said yes. Do I  
25 recall this one? No.

1 Q Okay. Whether or not you recall it, in realtime have  
2 you had a chance to read it before you came into court  
3 today?

4 A I don't recall reading it.

5 Q You don't recall reading it. All right. I don't  
6 want to go through it with you. I just want to ask you  
7 this question. Do you have any recollection of receiving  
8 these kind of e-mails from my client, or letters from my  
9 client, to state employees that mentioned Jonnie Williams  
10 or Anatabloc or Star Scientific?

11 A No.

12 Q Okay.

13 MR. ASBILL: You can take that down. Thank you.

14 BY MR. ASBILL:

15 Q The next exhibit they showed you was Exhibit 248.

16 MR. ASBILL: Would you please pull that up  
17 again.

18 BY MR. ASBILL:

19 Q This was an e-mail that you described, and this was  
20 Jonnie Williams wants to discuss some interesting  
21 cardiology topic. And apparently he has set up a meeting  
22 with you for the 3rd of October; is that correct?

23 A That's correct.

24 Q Okay. And this is something that was set up with  
25 your assistant --

1 A Correct.

2 Q -- is that correct?

3 And --

4 A And she did tell me that it was about -- it may say a  
5 "cardiology topic." But she did tell me it was about a  
6 new drug.

7 Q Okay. And she also told you that Jonnie Williams,  
8 presumably, told her that he was the founder of Visx Laser  
9 Vision and the CEO of Star Scientific?

10 A I assume that's where she got that.

11 Q I mean, do you have any reason to believe she'd look  
12 him up and put that in there?

13 A I think she probably did whatever he told her, or  
14 maybe he sent her something. I don't know.

15 Q Okay. And with respect to -- to this meeting, at  
16 least this message doesn't say anything about my client,  
17 Governor McDonnell, right?

18 A No.

19 Q Okay. And, in fact, you met with Jonnie Williams on  
20 that evening of October 3rd, 2011 --

21 A Yes.

22 Q -- at approximately 6:30?

23 A Yes.

24 Q And that's when you told him, basically, you got 30  
25 minutes, and he said how about 45?

1 A Correct.

2 Q Okay. Now, prior to -- between the time of this note  
3 to you about scheduling the meeting and the meeting  
4 itself, do you recall another e-mail that you received  
5 from your scheduler suggesting to you that Jonnie Williams  
6 told her -- or your assistant telling you that Jonnie  
7 Williams was going to bring the Governor with him to come  
8 see you?

9 A She made some reference to that, saying -- she was  
10 sort of puzzled is the way to say it. She said, "I'm not  
11 quite sure what's involved in all of this." She said, you  
12 know, "He said he might bring the Governor with him."

13 Q Okay. But --

14 A I didn't --

15 Q All right.

16 A I didn't go too far with that.

17 Q But, in fact, he did not?

18 A He did not.

19 Q Okay. And then you two met and you talked about  
20 Anatabloc, et cetera, and whatever his story was about  
21 that.

22 A Right.

23 Q And would I be accurate in saying that you were very  
24 interested in what he was describing to you?

25 A Well, as someone who's been involved in scientific

1 studies over the years and development, you know,  
2 opportunities to get something early are a good  
3 opportunity if it's a valuable potential product or study  
4 and so forth. So I was interested, if this had any  
5 potential, because it looked like an opportunity to get in  
6 on the ground floor.

7 Q So it was an opportunity, in your view, if it was  
8 real, essentially, to get in on the cutting edge of a  
9 potential very serious breakthrough in medicine. Is that  
10 fair?

11 A Correct.

12 Q All right. So after Mr. Williams talked to you, you  
13 all drove over to the Mansion; is that correct?

14 A Correct.

15 Q All right. And this was to, supposedly, get some  
16 cookies that my client's wife makes?

17 A That's correct.

18 Q Did you ever get a cookie?

19 A No.

20 Q And on that night, this was the Spielberg event for  
21 the Lincoln movie; is that correct?

22 A Correct.

23 Q All right. And you drove over in the car. You  
24 described you couldn't open the door; is that right?

25 A That's correct.



1 Q And that's because it was a very fancy, expensive car  
2 that was sort of complicated?

3 A That's correct.

4 Q And you thought it was a Maserati, or something like  
5 that?

6 A I'm not sure what it was.

7 Q All right. So --

8 A I'm not good on expensive cars.

9 Q So up until this point, Mr. Williams had said, "Well,  
10 I'm going to bring the Governor over, and he did. And  
11 he's got this fancy car. And did you get the sense --

12 MR. FAULCONER: Objection, Your Honor. There's  
13 been testimony as to what --

14 THE COURT: Sustained. Don't editorialize.  
15 Just ask a question.

16 BY MR. ASBILL:

17 Q Did you think Mr. Williams was trying to impress you?

18 A I guess so. I guess I didn't think about it too  
19 much. I mean, it seemed to me that it was far more than I  
20 expected to discuss a drug.

21 Q All right. Let me go back to when you first met  
22 Mr. Williams. When you first met Mr. Williams, this is  
23 when he brought a patient to you that he said was of  
24 interest to him; is that correct?

25 A That's correct.

1 Q All right. And I take it you helped the patient out?

2 A We took care of the patient. I will --

3 Q All right. And later, some ten years or whatever,  
4 you see Mr. Williams in an airport in Atlanta; is that  
5 correct?

6 A I don't know if it's ten years or five years.

7 Probably closer to five years. But I don't --

8 Q Okay. And he recognizes you?

9 A Correct.

10 Q All right. And when he recognizes you, he says hi  
11 again to you; is that correct?

12 A He came up and reintroduced himself to me, reminded  
13 me of the previous incident with the patient --

14 Q Okay.

15 A -- and sort of --

16 Q And he does something else as well, does he not?

17 A That's correct. We had our brief discussion for a  
18 few minutes. I went off to the side, still waiting for  
19 the airport -- for the airplane, and I got paged by the  
20 person at the gate, who said, "Mr. Williams has upgraded  
21 you to first class."

22 Q And you thought that was a gracious gesture?

23 A I did.

24 Q Okay. Now, going back to the Spielberg event. When  
25 you arrive at the Spielberg event in Mr. Williams' car,

1 you say that you parked on the grass there --

2 A Correct.

3 Q -- at the Mansion?

4 And were there cars parked everywhere for this event?

5 A I don't recall.

6 Q And you were not on the guest list, were you?

7 A What he said to the -- I guess it's the gate guard  
8 that was there.

9 Q Right.

10 A He said, "I'm Jonnie Williams, and this is my guest  
11 for tonight, Dr. Vetrovec."

12 Q Okay. And the guard happened to know you, right?

13 A Well, the guard looked into the car and he looked at  
14 me, and he said, "Oh, I think I know him. He did my  
15 brother," referring to a procedure.

16 Q Did you do his brother well?

17 A I hope so.

18 Q So you go into this event, and there are hundreds of  
19 folks at this event. Is that fair?

20 A That's correct.

21 Q All right. And you don't recall talking to my client  
22 at all during that event?

23 A No, I do not.

24 Q But you did get to meet Mr. Spielberg?

25 A I did.

1 Q And the two of you had some California connection  
2 that you talked about for a second. Is that fair?

3 A That is true. It turned out that he was very  
4 personable and he funds research for a cardiologist in Los  
5 Angeles at Cedars-Sinai that I know, and so we had a  
6 little discussion.

7 Q Okay. And do you recall whether you talked to Jonnie  
8 Williams at that event about Anatabloc or Star?

9 A I don't recall at all, at the Governor's Mansion  
10 event, speaking about Anatabloc. We talked about it in  
11 the car coming over, in the car going back.

12 Q Okay. And then I believe, going forward in time --

13 MR. ASBILL: I'd like to see Exhibit 251.

14 BY MR. ASBILL:

15 Q -- you were invited to an event at the Westin Hotel  
16 mid-October of 2011?

17 A That's correct.

18 Q Okay. And up to this point in time, and with respect  
19 to any e-mails or documents other than my client's letter  
20 to Virginia employees, my client is not on any of these  
21 exchanges relating to you and Mr. Williams; is that  
22 correct? Not cc'd or not copied in or directed to or  
23 from?

24 A None that I can recall.

25 Q Okay. And this is from Carolyn Birgmann. And who

1 did you understand her to be?

2 A An employee of Rock Creek Pharmaceuticals or Star  
3 Scientific. I'm not sure what -- what particular agency,  
4 but that she worked for --

5 Q I'm sorry. Well, did you understand that Rock Creek  
6 Pharmaceuticals and Star were essentially one in the same?

7 A Well, I thought they were somehow separate entities,  
8 but -- but would not be surprised to think they were  
9 somehow closely associated.

10 Q Okay. And this is inviting you to attend the Westin  
11 event; is that correct?

12 A Correct.

13 Q All right.

14 MR. ASBILL: And can we pull up the invitation,  
15 please. I think it's attached. Is it not attached? Try  
16 RM-1232. Can you pull up the invitation from that  
17 document.

18 MS. TARAKTCHIAN: It's not attached.

19 MR. ASBILL: Not there. We'll try to find it in  
20 a second.

21 BY MR. ASBILL:

22 Q Do you recall what the invitation said?

23 A No.

24 Q All right. You attend the event, correct?

25 A Correct.

1 Q And there are two or three lectures talking about  
2 studies and anatabine or Anatabloc's effects on  
3 Alzheimer's?

4 A There was at least one on its effects on Alzheimer's.

5 Q Okay. And my client wasn't there, right?

6 A No. I do not recall seeing him at all.

7 Q Okay. And to your knowledge, he was not advertised  
8 on the invitation; is that correct?

9 A I don't recall that.

10 Q All right. Now, going forward to the Healthcare  
11 Leaders event.

12 MR. ASBILL: And I believe this is Exhibit 342.  
13 Would you please pull that up, Victoria. And is there an  
14 attachment to that. Don't worry about it if there's not.

15 MS. TARAKTCHIAN: No.

16 BY MR. ASBILL:

17 Q With respect to this event, this was on what -- this  
18 is, what, leap year, right? 2/29/2012; is that correct?

19 A That's the --

20 Q The event was on --

21 A -- date on that exhibit.

22 Q Okay. And that, in fact, was the date of the event;  
23 is that correct?

24 A Correct.

25 Q Okay. And you go to the Healthcare Leaders event.

1 You're invited to that. And would I be correct in  
2 saying -- and I'm not asking you to brag -- that you  
3 viewed yourself as a healthcare leader in Virginia?

4 A Well, when I got the invitation, you say, Why am I  
5 invited to this?

6 MR. FAULCONER: Objection, Your Honor.

7 A And at that time, I was on the --

8 MR. FAULCONER: I'm sorry, Your Honor. Just  
9 objection as the witness speculating as to why he was  
10 invited. If he doesn't know.

11 THE COURT: Overruled.

12 Go ahead.

13 A Okay. Well, my speculation was that I was invited  
14 because I was on the VCU Health System Board at the time,  
15 which I thought would qualify for that recognition.

16 BY MR. ASBILL:

17 Q So you thought you were qualified to be at a  
18 Healthcare Leaders event --

19 A Right.

20 Q -- correct?

21 All right. And I believe you said that you -- you  
22 met my client at the event, and you all talked about  
23 budget issues?

24 A That's correct.

25 Q And that related to the entire state budget; is that

1 correct?

2 A That's correct. That's how I recall.

3 Q Do you have any sense of what the health component,  
4 healthcare component part of the total budget is? Do you  
5 have any idea what the percentage is?

6 A No.

7 Q Would you think it's large or small or somewhere --

8 A Large.

9 Q Large. Okay. And there was no discussion at all  
10 with my client or in the presence of my client about  
11 Anatabloc or Star Scientific?

12 A None that I can recall.

13 Q Okay. You say you had a side conversation at some  
14 point with Jonnie Williams at the event about his  
15 interests; is that correct?

16 A Correct.

17 Q All right. Now, you looked at Exhibit 309, which is  
18 a list of the attendees at the event.

19 MR. ASBILL: Could we pull that back up, please.

20 BY MR. ASBILL:

21 Q And I think you said you recognized some of the names  
22 there, et cetera.

23 MR. FAULCONER: Just -- Your Honor, objection  
24 real quick. It's not a list of attendees to the event. I  
25 think the prior testimony established none of these people



1 attended.

2 THE COURT: Sustained.

3 BY MR. ASBILL:

4 Q You looked at the -- you looked at this list, and you  
5 said you recognized some of the names, right?

6 A Correct. I really did not recognize the people, but  
7 really recognized the companies.

8 Q You recognized the companies. Okay. And were there  
9 folks at the event that you did recognize personally?

10 A There were a handful of people. There were some VCU  
11 people. I can't remember who they were. But I remember  
12 seeing people that I knew.

13 Q How many -- can you give me an estimate of how many  
14 people actually attended that event?

15 A I think I probably can't. Because I got there late.  
16 I realize that's a little bit of a pattern. But I got  
17 there late, and so when I got there, a lot of people, I  
18 think, had already left at that point. So there were  
19 probably 25 people when I was there.

20 Q At the time you got there?

21 A Yeah.

22 Q And did you go through all the various rooms where  
23 people might be mingling?

24 A I don't think I went -- it seemed to me there were  
25 just like two rooms or something. I didn't see an

1 expansive. But maybe I didn't figure it out.

2 Q Okay. Going forward to early March 2012, and you  
3 talked about that time frame with respect to Exhibit 353,  
4 which is an e-mail from Mr. Abbate to Mr. Clore, or visa  
5 versa, and you're copied in on it?

6 A Yes. That's Dr. Abbate to Dr. Clore.

7 Q Right. Okay. And you're cc'd on that e-mail?

8 A Correct.

9 Q And I believe you said that in that time frame in  
10 early March you and Dr. Abbate were discussing a list of  
11 potential studies; is that correct?

12 A Correct.

13 Q Had you focused in on that point in terms of how much  
14 the studies might cost?

15 A No, we had not. Well, only to the extent of saying  
16 if we plan a study, how long should the follow-up be.  
17 Because the longer the follow-up, the more cost. How  
18 complicated is the study. Because all of that does affect  
19 money, and we, frankly, didn't think that was going to be  
20 a high budget study.

21 Q All right. But you hadn't pinpointed any particular  
22 dollar amount --

23 A No.

24 Q -- or anything like that?

25 A No. Not at all.

1 Q And no discussions with Jonnie Williams about that at  
2 all?

3 A Not anything about dollar amount.

4 Q Okay. And then you say sometime later in May or end  
5 of May, that there was a note that he had called you? You  
6 got some note in, I believe, the 30th of May.

7 MR. ASBILL: Exhibit 391. Can we pull that up.

8 BY MR. ASBILL:

9 Q You get a message to call Jonnie Williams, right?

10 A Right. I affirm that that's there. I don't remember  
11 what we talked about, when I actually returned the call,  
12 et cetera.

13 Q Okay. And at some point later you return -- do you  
14 know whether it's shortly after this or months after it or  
15 what that you talked to him again or talked to him in  
16 response to this?

17 A I don't know. I assume it was fairly soon, but I  
18 don't know.

19 Q All right. And at that point he wanted to talk to  
20 you about joining a different group of some sort of  
21 centers or something? I wasn't quite sure what you said.

22 A Well, I think -- he had some type of ongoing study,  
23 and he said, "Since you're not currently involved in this,  
24 maybe you would want to join another group and you could  
25 pool your data."

1 Q Okay. And --

2 A That's what I mean by multi-center study. And I  
3 don't recall whether there were other centers grouped  
4 already or whether it was just one other center that he  
5 was offering for us to join.

6 Q And that was the -- basically, the end of your  
7 conversations with Jonnie Williams about all this?

8 A I think so. I can't -- I can't remember.

9 I know that there was also a time when someone  
10 contacted me from Rock Creek Pharmaceuticals. And,  
11 actually, when we -- and I assume this is after we didn't  
12 participate in this study. They wanted me to review the  
13 data from a study, which I didn't do. But they wanted me  
14 to review it.

15 Q Did he offer to pay you to do that?

16 A Yes.

17 Q And you didn't accept it?

18 A I didn't.

19 MR. ASBILL: Thank you, sir. I have no further  
20 question.

21 THE COURT: All right.

22 Ms. McDonnell, cross?

23 MS. MARTIN: Thank you, Your Honor. Briefly.

24 **CROSS-EXAMINATION**

25 BY MS. MARTIN:

1 Q Dr. Vetrovec, my name is Heather Martin, and I  
2 represent Ms. McDonnell.

3 Directing your attention back to the Steven Spielberg  
4 event.

5 A Yes.

6 Q Do I correctly understand your testimony that your  
7 only interaction with Ms. McDonnell that night is that  
8 Jonnie Williams asked you -- or asked her, rather, to  
9 introduce you to Mr. Spielberg?

10 A That's correct.

11 Q And at that time, you did not get the impression that  
12 Mr. Williams and Ms. McDonnell had previously discussed  
13 who you were, correct?

14 A No. I thought -- not at all.

15 Q And then moving forward a couple of weeks to the  
16 Westin Hotel event. You testified that you attended that  
17 event, correct?

18 A Yes.

19 Q An event sponsored by Star Scientific or Rock Creek  
20 Pharmaceuticals, correct?

21 A Correct.

22 Q And you do not recall Ms. McDonnell speaking at that  
23 event, correct?

24 A I do not recall her speaking at the event. Recall, I  
25 said I came late. But I have some recollection that she

1 was leaving as I came or had been there in some way.

2 Q You don't recall having seen her at the event?

3 A I can't say that. I know she was there, and if I saw  
4 her leaving or something to there, that I probably did see  
5 her. But I didn't -- I don't recall hearing her speak.

6 Q And then moving forward to the Healthcare Industry  
7 Leaders event in February of 2012. This is an event you  
8 attended, correct?

9 A Yes.

10 Q And you did not speak to Ms. McDonnell at that event,  
11 correct?

12 A I do not recall. In fact, I do not recall seeing her  
13 at the event. That doesn't say she wasn't there. I just  
14 don't recall.

15 Q Now, you stated that you and Dr. Abbate periodically  
16 talked about the possibility of participating in a study  
17 of Anatabloc, correct?

18 A Correct.

19 Q And is it fair to say that your interest in  
20 participating in such a study had nothing to do with  
21 Ms. McDonnell?

22 A That's correct.

23 MS. MARTIN: No further questions.

24 THE COURT: Redirect?

25 MR. FAULCONER: Very briefly, Your Honor.

**REDIRECT EXAMINATION**

BY MR. FAULCONER:

Q Without getting into the full number, Dr. Vetovec, was one of the numbers -- phone numbers associated with you in this time frame a number that ended in 2968?

A Correct.

Q All right.

MR. FAULCONER: No further questions, Your Honor.

THE COURT: All right. Thank you, Doctor. You may stand down.

(Witness stood aside.)

THE COURT: Call your next witness, please.

MS. ABER: Amy Bridge.

**AMY BRIDGE,**

called as a witness by and on behalf of the government, having been first duly sworn by the Clerk, was examined and testified as follows:

**DIRECT EXAMINATION**

BY MS. ABER:

Q Good afternoon.

A Good afternoon.

Q Please state your name, and spell your last for the court reporter.

A Amy Bridge. B-R-I-D-G-E.

1 Q How are you currently employed, Ms. Bridge?

2 A I work for the Library of Virginia Foundation.

3 Q Previously, did you work at the Executive Mansion?

4 A I did.

5 Q And when did you do so?

6 A From August of 2002 until January 2010.

7 Q So which Governors did you work for?

8 A Governor Mark Warner and Governor Tim Kaine.

9 Q Is it fair to say you helped with the transition, a  
10 little bit, when Governor McDonnell took office in 2010?

11 A I did. I stayed for one month.

12 Q Is it also fair to say that you had roughly the same  
13 job that a woman named Sarah Scarbrough had in the  
14 McDonnell administration?

15 A Yes.

16 Q Okay. Now we will turn your attention back, please,  
17 to your time as a Mansion Director in both the Warner and  
18 Kaine administrations.

19 A Uh-huh.

20 Q I'm going to ask you these questions lumping them  
21 together. If they are appropriately separated, please  
22 answer the question in that way. Does that make sense?

23 A Yes.

24 Q Okay. In those administrations, how common was it  
25 for the Mansion to host events?



1 A We had events, on average, about twice a week.

2 Q And how much of your day-to-day job involved event  
3 planning?

4 A About half of my time.

5 Q What did you do with the other half?

6 A I spent serving as Curator for the house and the  
7 furnishings, working on facilities management, assisting  
8 the family, that sort of thing.

9 Q With regard to event planning, how common was it for  
10 you and the other government employees to participate in  
11 the planning?

12 A A hundred percent.

13 Q So when you say that, do you mean that -- what do you  
14 mean by that?

15 A Well, the plans for events, the decision on having  
16 events would be made in the Governor's Office or the  
17 Office of the First Lady. The information would come to  
18 me, and I would take over the planning at that point.

19 Q So who had the decision-making authority to schedule  
20 an event at the Mansion?

21 A That would be the Governor and First Lady's staff,  
22 the Governor's scheduler, Chief of Staff, that sort of  
23 role.

24 Q In those two administrations, did the Governor and  
25 First Ladies have to bless an event that was put on a

1 calendar?

2 A Yes. An event had to be part of their -- applicable  
3 to their job and their roles, and they had to be hosted by  
4 either the Governor or the First Lady.

5 Q Now, can a -- in those two administrations, could a  
6 member of the public just come on in and rent the Mansion?

7 A No.

8 Q Did either or both Governors ever have Mansion events  
9 that related to Virginia business and economic  
10 development?

11 A Yes.

12 Q Were both Governors supportive of Virginia business?

13 A Yes.

14 Q Can you tell the jury a little bit about what kinds  
15 of events related to Virginia business and economic  
16 development they might have had or had?

17 A We hosted events for companies that were considering  
18 opening operations in Virginia or that had opened  
19 operations in Virginia. When JetBlue decided to fly to  
20 Richmond, we had an event for them. When the Commerce and  
21 Trade was wooing the Sabra Hummus people, we had an event  
22 for them as well. We also had events for the Tourism  
23 Office, the Film Office, the Virginia Economic Development  
24 Partnership, all came under Commerce and Trade.

25 Q Was it your experience that events at the Mansion had

1 to be applicable to the work being done by the Governor  
2 and First Lady?

3 A Absolutely.

4 Q Now, in those two administrations, if the Mansion  
5 events were related to business, is it fair to say that  
6 they were generally related to a significant business  
7 opening or luring a business to Virginia?

8 A Yes.

9 Q Did the Mansion ever host receptions for the  
10 Department of Commerce and Trade?

11 A Yes.

12 MS. ABER: If I could have one moment, please,  
13 Your Honor.

14 (Counsel conferring with co-counsel.)

15 MS. ABER: Thank you, Your Honor. I pass the  
16 witness.

17 THE COURT: Cross.

18 **CROSS-EXAMINATION**

19 BY MR. ASBILL:

20 Q Good afternoon, Ms. Bridge. My name is Hank Asbill.  
21 I represent Bob McDonnell.

22 A Good afternoon.

23 Q How are you?

24 A Fine. Thank you.

25 Q You spent only a brief period of time during the

1 transition of administrations, essentially --

2 A Correct.

3 Q -- with my client?

4 So you were there for about a month; is that correct?

5 A Yes.

6 Q And then Sarah Scarbrough took your job; is that  
7 correct?

8 A Yes. We worked together for that month so that I  
9 could provide some training.

10 Q So you could provide some training and help in the  
11 transition; is that correct?

12 A Uh-huh.

13 Q And, you know, with respect to hosting events in the  
14 Mansion and that sort of thing, is there any kind of law  
15 or regulation that governs what someone can do as a  
16 Governor or First Lady in the Mansion?

17 A To my knowledge, the only rule is that there cannot  
18 be ticketed events at the Mansion. People cannot pay to  
19 buy a ticket to come to an event at the Mansion.

20 Q Okay. And is there some sort of -- as you  
21 transitioned, was there some sort of manual, basically, of  
22 how to operate a Mansion that was left behind?

23 A I -- yes. I wrote a Mansion manual that we used  
24 during my two administrations.

25 Q And those were about sort of administrative things or

1 were those about hosting events?

2 A They were the day-to-day operations, staff  
3 requirements, procedures, that sort of thing.

4 Q Okay. And you experienced that position with two  
5 different Governors, correct?

6 A I did.

7 Q And is it fair to say that each Governor who comes in  
8 basically does it his own way?

9 A They are given the freedom to run the Mansion however  
10 they would like.

11 Q Okay. And with respect to the idea of supporting  
12 Virginia businesses, were you aware that -- that my  
13 client's campaign initiative was Bob's For Jobs?

14 A I think I had heard that. But that was not part of  
15 my job in that month.

16 Q Okay. And you talked about events for opening  
17 operations or, what, expanding operations or what was it  
18 that you said?

19 A That could be. But generally, it was for bringing  
20 new companies to Virginia.

21 Q Or perhaps trying to keep companies in Virginia to  
22 stay in Virginia instead of going to another state?

23 A Perhaps. I don't recall that.

24 Q Okay. Were there any events when you were there that  
25 were designed to -- for companies to give money to

1 Virginia?

2 A Not to my knowledge.

3 Q All right. And I take it that you had, I mean, a  
4 brief interaction in the transition period with my client;  
5 is that correct?

6 A Correct.

7 Q And since that time, have you seen him?

8 A I saw the Governor twice. Once on election day last  
9 year at my previous employer, and once recently at a  
10 funeral.

11 Q And did you all exchange greetings?

12 A Just greetings and hello, how are you type things.

13 MR. ASBILL: Thank you very much.

14 THE COURT: Mr. Burck.

15 MR. BURCK: Your Honor, very briefly.

16 **CROSS-EXAMINATION**

17 BY MR. BURCK:

18 Q Good afternoon, Ms. Bridge. My name is Bill Burck,  
19 and I represent Maureen McDonnell. Just a few quick  
20 questions.

21 A Yes, sir.

22 Q The Governors you worked for were both married,  
23 right?

24 A Correct.

25 Q And they both -- so they had First Ladies of

1 Virginia?

2 A Correct.

3 Q And the First Ladies would participate in Mansion  
4 events on occasion?

5 A Yes.

6 Q And the -- the Mansion would typically invite people  
7 to these events, right?

8 A Yes, uh-huh.

9 Q And typically, the First Lady would also have an  
10 opportunity, when she was going to be part of an event, to  
11 invite people to events, right?

12 A Yes.

13 Q So there was nothing unusual about that, in your  
14 experience?

15 A No.

16 Q And do you know -- I think the First Lady, the only  
17 official position she has is she's the Honorary Chair of  
18 some kind of Citizens' Committee?

19 A Correct. There is a Citizens' Advisory Council on  
20 Furnishing and Interpreting the Executive Mansion, known  
21 as the CAC, and the First Lady is an ex officio member of  
22 that.

23 Q And ex officio meaning, I guess in common parlance,  
24 sort of honorary?

25 A Yes.

1 MR. BURCK: That's it, Your Honor.

2 THE COURT: All right. Anything else?

3 MS. ABER: No, Your Honor. Thank you.

4 THE COURT: All right. Thank you, ma'am. You  
5 may stand down.

6 (Witness stood aside.)

7 THE COURT: Call your next witness.

8 MS. ABER: Special Agent Charles Hagan.

9 **CHARLES HAGAN,**

10 called as a witness by and on behalf of the government,  
11 having been first duly sworn by the Clerk, was examined  
12 and testified as follows:

13 **DIRECT EXAMINATION**

14 BY MS. ABER:

15 Q Good afternoon, sir.

16 A Hello.

17 Q Please state your name, and spell your last for the  
18 record.

19 A Charles Hagan. H-A-G-A-N.

20 Q How are you currently employed, Special Agent?

21 A I'm a Special Agent accountant with the Virginia  
22 State Police.

23 Q How long have you had that job?

24 A Ten years.

25 Q Okay. Were you employed in law enforcement before



1 that?

2 A Yes, I was.

3 Q Let's start at the beginning of your law enforcement  
4 career, please, and walk through it to present for the  
5 jury.

6 A Okay. In 1975, I became a police officer in the City  
7 of Baltimore. I left there in 1978 to attend graduate  
8 school in New York City. I then took a position as a  
9 Special Agent with the Internal Revenue Service in  
10 Chicago. Took a promotion and transferred to Washington,  
11 D.C. While I was there, I transferred over to the FBI,  
12 and I retired from the FBI in March of 2004.

13 Q And instead of retiring to a beach, you joined the  
14 State Police?

15 A Yes, I did.

16 Q Okay. And just for the jury's knowledge, were you  
17 run out of these various law enforcement agencies? Why  
18 were you leaving each of them?

19 A It was -- the police department was so I could attend  
20 school, go to graduate school. I left the IRS because I  
21 was traveling six months out of the year. I was in the  
22 International Division. And then I stayed with the FBI,  
23 and retirement was at 57, mandatory retirement. And I  
24 left in 2004 because there was an opening in the State  
25 Police.

1 Q Now, are you one of the case agents in the  
2 investigation of Mr. and Ms. McDonnell?

3 A Yes, I am.

4 Q Before that, were you a case agent on any related  
5 cases?

6 A Yes. I was the case agent on the investigation  
7 concerning the chef of the Executive Mansion that was  
8 embezzling food from the Mansion.

9 Q Now, Special Agent, was there ever a federal, federal  
10 grand jury investigation opened on the case about the chef  
11 stealing food from the Mansion?

12 A No, there was not.

13 Q Okay. Were you also involved in the investigation of  
14 Jonnie Williams for suspected securities fraud?

15 A Yes, I was.

16 Q And was a federal grand jury opened on that case?

17 A Yes, there was one.

18 Q And is it fair to say there was a federal grand jury  
19 involving Mr. and Ms. McDonnell opened in this case?

20 A Yes, there was.

21 Q Now, in the course of these various investigations,  
22 did you have to keep your supervisors at the Virginia  
23 State Police apprised of your progress?

24 A Yes, I did.

25 Q And why was that?

1 A Because it involved -- first, it involved the  
2 Mansion, and they were very worried about someone stealing  
3 from the Governor's Mansion.

4 And then when we got involved with the Governor's  
5 investigation, Mr. McDonnell was the boss of all of us in  
6 the State Police, and my supervisors wanted to know what  
7 was going on regarding the investigation.

8 Q Now, did you have an opportunity to interview  
9 Defendant Ms. McDonnell back in February, that being  
10 February 15th of 2013?

11 A Yes, I did.

12 Q Did you set up that interview?

13 A No, I did not.

14 Q Do you know what explanation was given to put on her  
15 calendar?

16 A At the time, I did not.

17 Q Now, Special Agent, do you typically tell folks that  
18 you're going to interview what topics will be addressed  
19 during the interview?

20 A No, I do not.

21 Q And why don't you do that?

22 A Normally when we do interviews, we'll knock on  
23 someone's door and identify ourselves and explain we're  
24 here and we need to ask you some questions. We do that so  
25 that we don't give them an opportunity to think about

1 their answers prior to us coming to interview them.

2 Q Now, setting aside the topic of lawyers who want to  
3 attend an interview, putting that aside, do you customary  
4 permit just additional folks to tagalong to participate in  
5 interviews?

6 A No. You normally want to have the person you're  
7 interviewing be by themselves so there's no distractions.  
8 I found if somebody is present, they might interject  
9 things as I'm talking to the witness.

10 Q Now, on that day in February of 2013, why did you go  
11 interview Ms. McDonnell?

12 A I had to -- for several reasons. Number one was one  
13 of the allegations in the chef case was that -- Todd  
14 Schneider had mentioned that Ms. McDonnell had authorized  
15 a bartering agreement between the two where he owned a  
16 catering company on the side as well as being the chef for  
17 the Mansion, and he would provide services to the Mansion.  
18 In exchange, he was allowed to take food from the Mansion.  
19 Kind of like in a bartering system.

20 Q And --

21 A And secondly, I needed to -- we had some information  
22 where we had found a \$50,000 check made payable to  
23 Ms. McDonnell from a trust, Starwood Trust, and also a  
24 \$15,000 check from Starwood Trust that paid for her  
25 daughter's wedding.

1 Q Now, at the time of this interview, what payments  
2 from Starwood Trust to Maureen McDonnell did you know had,  
3 in fact, occurred?

4 MR. BURCK: Objection, Your Honor. Can we  
5 approach briefly?

6 THE COURT: Come on up.

7 (At Bench.)

8 MR. BURCK: Your Honor, the objection is  
9 actually to the prior question. The testimony that came  
10 in was that she was involved in the bartering transaction.  
11 I just wanted to make sure that the -- they are going to  
12 elicit that she, in fact, did not, that she was not  
13 involved in any criminal activity with the chef. Because  
14 right now the impression that maybe left is that she's  
15 committed another crime that has not been either informed  
16 of --

17 THE COURT: I don't have any -- any of that.  
18 You'll be able to deal with that on cross-examination.  
19 That objection will be overruled.

20 MR. BURCK: Okay. Thank you, Your Honor.

21 (In Open Court.)

22 BY MS. ABER:

23 Q Let me ask the question one more time. At the time  
24 that you went to the Mansion for the interview, what  
25 payments from Starwood Trust to Maureen McDonnell did you

1 know had, in fact, occurred?

2 A I was aware of the \$15,000 check from Starwood Trust,  
3 payable to Great Seasons for the benefit of  
4 Ms. McDonnell's child's wedding. And I was also aware of  
5 a \$50,000 check made payable to Maureen McDonnell.

6 Q Did you take a second agent with you to the  
7 interview?

8 A Yes, I did.

9 Q And why did you do that?

10 A Several reasons. Normally, whenever I interview a  
11 female, I always bring another person so that there could  
12 never be any allegations of something inappropriate.

13 Secondly, I wanted a witness when I did the  
14 investigation -- interview. And thirdly, because it was  
15 Ms. McDonnell, the First Lady of Virginia, I thought I  
16 better have another witness with me.

17 Q Who did you take with you?

18 A Special Agent -- well, we know him as Doc Lyons.  
19 Well, it's -- James Lyons is his official name. He's a  
20 Special Agent with the State Police.

21 Q And why did you pick him?

22 A Because he was a senior agent and mature.

23 Q Did he have anything else to do with this  
24 investigation?

25 A No. He was not involved in the investigation at all.

1 Q Now, where did your interview take place?

2 A It took place on the grounds of the Executive  
3 Mansion. There was a building to -- as you're looking at  
4 the Executive Mansion, there's a building to the right,  
5 and it was in that building.

6 Q And within that building, were you in Ms. McDonnell's  
7 office?

8 A It looked like her office. Yes.

9 Q Had you ever interviewed Ms. McDonnell before?

10 A No, I had not.

11 Q Who was present at this interview?

12 A Ms. McDonnell, Agent Lyons, and myself.

13 Q Did either of you take notes during the interview?

14 A I took notes.

15 Q Who did the questioning of Ms. McDonnell?

16 A I did the questioning.

17 Q Was it -- is it fair to say you were trying to ask  
18 questions and take notes at the same time?

19 A That's correct.

20 Q Now, talking about the interview itself, did you say  
21 anything at the beginning of the interview to  
22 Ms. McDonnell?

23 A We introduced ourselves. We displayed our  
24 credentials and our badges, identified ourselves to her.  
25 I engaged her in some conversation, kind of like trying to

1 build up a rapport with her. I knew that she had been a  
2 former FBI employee, as I was. So we talked about that  
3 for a while. And then I learned that when her father was  
4 an agent, an FBI agent, he lived in New York, and we found  
5 out that we lived in the same neighborhood. She lived in  
6 the neighborhood that I grew up in.

7 Q Now, at the interview, what was the very first topic  
8 you addressed?

9 A We talked about the chef and how she came about  
10 meeting him.

11 Q And did the conversation then turn to Cailin  
12 McDonnell's wedding?

13 A Yes, it did.

14 Q Did you ask Ms. McDonnell about the contract for the  
15 wedding catering?

16 A About the wedding catering?

17 Q Uh-huh. Did you ask her about the contract?

18 A Yes.

19 Q Did you ask Ms. McDonnell about the payment on the  
20 wedding catering contract?

21 A Yes.

22 Q Did you then explain to Ms. McDonnell that a search  
23 warrant had been conducted at the catering company?

24 A Yes.

25 Q And did you tell Ms. McDonnell that investigators had



1 found a \$15,000 check?

2 MR. BURCK: Objection, Your Honor. Leading  
3 questions.

4 THE COURT: Sustained.

5 MS. ABER: Your Honor, can we approach for a  
6 moment?

7 THE COURT: Come on up.

8 (At Bench.)

9 MS. ABER: Your Honor, I'm trying to tread  
10 carefully in light of our previous -- the motion in limine  
11 filed by the defendant in reference to the three  
12 particular statements that Special Agent Hagan can  
13 articulate that Ms. McDonnell provided. Other than that,  
14 we're constrained to topics. And I'm not sure, other than  
15 having him list all the topics, how I can list --

16 MR. BURCK: If that's the basis of the  
17 objection, then -- they just didn't tell me that.

18 THE COURT: Okay.

19 MR. ASBILL: Excuse me one second. I can hear  
20 the conversation from counsel table. I don't know if  
21 there's a hush, but I can hear it. That's why I came up.

22 THE COURT: Okay.

23 (In Open Court.)

24 BY MS. ABER:

25 Q Special Agent Hagan, did you explain to Ms. McDonnell

1 that a search warrant had been conducted at the catering  
2 company?

3 A Yes, I did.

4 Q Did you tell Ms. McDonnell that investigators had  
5 found a \$15,000 check from Starwood Trust to the catering  
6 company for Cailin McDonnell's wedding?

7 A We explained to her that we found \$15,000 that had  
8 been applied to the catering bill, yes.

9 Q Did you talk to Ms. McDonnell about Jonnie Williams?

10 A Yes, I did.

11 Q Okay. Now, tell the jury what Ms. McDonnell said  
12 about the origin of her relationship with Mr. Williams.

13 A She explained that Mr. Williams was a friend of the  
14 family for a long time. She indicated that her husband,  
15 when he left the Army, first had employment at the  
16 American Hospital Supply Company. And that's where he met  
17 Jonnie Williams, who was a representative for American  
18 Hospital Supply, at the same time.

19 Q Did Ms. McDonnell say how many -- how long ago she  
20 had met Mr. Williams?

21 A She said that her husband met him first, and that was  
22 when he got out of the Army.

23 Q Okay. Did you talk to Ms. McDonnell about her  
24 May 2011 trip to the Roskamp Institute?

25 A Yes, we did.

1 Q Did you talk to Ms. McDonnell about the August 30th  
2 2011 lunch at the Mansion?

3 A Yes, I did.

4 Q Did you talk to Ms. McDonnell about her attendance at  
5 a Star Scientific event in California?

6 A Yes, I did.

7 Q Did you tell Ms. McDonnell then that you had  
8 uncovered a check from Starwood Trust to her?

9 A Yes, I did.

10 Q Is it accurate that that was a \$50,000 check?

11 A It was a \$50,000 check payable to her. It was  
12 written on May 23rd, I believe.

13 Q Okay. What did Ms. McDonnell say about the \$50,000  
14 check in reference to a loan agreement?

15 A Well, she said that the \$50,000 was a personal loan  
16 to her and that Jonnie Williams had provided the money and  
17 that she had signed a contract for the loan agreement and  
18 that she was making periodic payments on the loan.

19 Q Did Ms. McDonnell ask you any questions?

20 A Yes, she did.

21 Q And what did she ask?

22 A She -- when we were talking about the \$15,000 check  
23 for the catering bill, she asked if we had interviewed her  
24 children.

25 Q Could you tell the jury what Ms. McDonnell's demeanor

1 was like during the interview?

2 A She was very pleasant. She was -- when we began the  
3 interview. She was pleasant throughout the interview.  
4 But she got a little more inquisitive of why we were  
5 asking questions about the \$50,000 check and the \$15,000  
6 check.

7 Q Once you concluded the interview in her office, what  
8 happened next?

9 A She escorted us out through the gardens, telling us  
10 this was the gardens of the Executive Mansion. As we were  
11 walking out, I asked her for a copy of the loan agreement.  
12 And she advised me she didn't think she had a copy of it,  
13 she remembers signing it, giving it back to Jonnie  
14 Williams, and she would try to get a copy from him for us.

15 Q At any time during your interview with Ms. McDonnell,  
16 or your time walking through the gardens, did she ever ask  
17 for an attorney?

18 A No, she did not.

19 MS. ABER: Okay. One moment, please, Your  
20 Honor.

21 (Counsel conferring with co-counsel.)

22 BY MS. ABER:

23 Q Special Agent Hagan, at the beginning of your  
24 testimony, I believe you mentioned the various reasons why  
25 you went to go interview Ms. McDonnell; is that right?

1 A Yes.

2 Q Okay. Did your investigation reveal that this  
3 purported bartering agreement between the chef and  
4 Ms. McDonnell had actually occurred?

5 A It had not occurred. There was -- she said that she  
6 had not made -- entered into an agreement with the chef.

7 Q Okay. And so is it fair to say, as sit here, that  
8 Ms. McDonnell -- your investigation didn't show that she  
9 did anything wrong in the chef --

10 A No.

11 Q -- investigation?

12 A No. No, not at all.

13 Q Okay.

14 MS. ABER: Thank you, Your Honor. I have no  
15 further questions.

16 THE COURT: All right. Cross?

17 MR. BURCK: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 BY MR. BURCK:

20 Q Good afternoon, Special Agent Hagan.

21 A Hello.

22 Q My name is Bill Burck, and I represent Maureen  
23 McDonnell.

24 A Hello, sir.

25 Q Can you just -- how long have you been in law

1 enforcement?

2 A Oh, over 30 years.

3 Q Over 30 years. And during that time, you received  
4 training on how to take police reports and take notes as  
5 part of your interview process?

6 A Yes.

7 Q And when you -- when you testify in a case where  
8 you've conducted the investigation, sometimes you use  
9 reports to help refresh your recollection if you don't  
10 remember things that well?

11 A That's correct.

12 Q And these reports that you -- you come up with that  
13 you write as part of your job, it's important that they be  
14 accurate?

15 A They -- they are my best recollection of what the  
16 person has told me. Yes.

17 Q Okay. But -- but they are --

18 A It's my best recollection.

19 Q And your best recollection to you, it's important  
20 that that be accurate?

21 A Yes. We strive to be accurate. Yes.

22 Q Okay. And do you try to have these reports be  
23 thorough?

24 A Yes, sir.

25 Q And you try to have them as complete as possible --

1 A Yes, sir.

2 Q -- within reason?

3 Okay. Now, you, obviously, can't write a report  
4 while you're conducting an interview. So you have to take  
5 notes?

6 A Yes, sir.

7 Q And is that your typical practice, to take notes  
8 while you're interviewing somebody?

9 A Normally, if I'm with two people, one person is --  
10 asks the questions, and the second person is the note  
11 taker. In this particular case, Agent Lyons didn't know  
12 much about the case so I took both, as we normally do in  
13 the State Police because we do a lot of our interviews by  
14 ourselves.

15 Q Okay. We'll get back to Agent Lyons in a moment.  
16 So -- and sometimes do you use your handwritten notes?  
17 Well, let me put it this way. You use your handwritten  
18 notes to help inform your -- your typed up report?

19 A That's correct.

20 Q And just to be clear, the handwritten notes are  
21 typically taken at the time that you're interviewing the  
22 person?

23 A Yes. And they are not verbatim notes.

24 Q Of course.

25 A As you know, they are just to refresh my memory when

1 I'm sitting down to write the report.

2 Q Okay. And just to be clear, in this case, for the  
3 February 15, 2013, interview of Maureen McDonnell, those  
4 notes were being taken simultaneous -- or  
5 contemporaneously with you interviewing her?

6 A That's correct.

7 Q And you were asking the questions?

8 A Yes, sir.

9 Q Okay. Now, you testified that -- you answered some  
10 questions on direct about having started this  
11 investigation -- or let me put it this way. That you had  
12 begun looking at the McDonnells in connection with another  
13 case, the Chef Todd case, Chef Todd Schneider?

14 A Todd Schneider. Yeah, Todd Schneider.

15 Q It was Todd Schneider. And you also -- excuse me.  
16 Todd Schneider.

17 A Schneider.

18 Q And you also said that you had been looking at Jonnie  
19 Williams as well, right?

20 A Yes, sir.

21 Q Okay. Now, in connection with the Chef Todd  
22 Schneider case, which is related to this one, at least in  
23 the origins, you had originally scheduled an interview  
24 with Ms. McDonnell in early part of 2012; is that right?

25 A That is correct.



1 MR. BURCK: I'd like to show, just for the  
2 witness, only RM-2072. And if you could blow up the  
3 second page, the bottom -- the first e-mail.

4 BY MR. BURCK:

5 Q You'll see this is an e-mail, sir, from Rick Jenkins  
6 to Steven Flaherty, cc'ing Herman Davis, and it's dated  
7 February 29th of 2012. Can you tell us, who is Rick  
8 Jenkins, and who is Steven Flaherty?

9 A Steven Flaherty is the Colonel with the State Police.  
10 And Rick Jenkins is the Major of the Criminal -- Bureau of  
11 Criminal Investigations. He's like the Deputy Chief of  
12 the Bureau of Investigations.

13 Q Okay. And had you told Mr. Jenkins, as of  
14 February 29th, that you would like to interview the First  
15 Lady --

16 A Yes.

17 Q -- that week?

18 A Yes, I did.

19 Q Okay.

20 MR. BURCK: And can we please go to the first  
21 page.

22 BY MR. BURCK:

23 Q You'll see there's an e-mail from Martin Kent to  
24 Steven Flaherty, dated February 29th, 2012, same day. And  
25 it's -- do you know who Martin Kent is?

1 A Yes, I do.

2 Q And who is he?

3 A He's the Chief of Staff for the Governor.

4 Q Okay. And you'll see there's a series of e-mails  
5 above that.

6 MR. BURCK: If you would just blow up the whole  
7 page so that he can see that.

8 BY MR. BURCK:

9 Q And fair to say that this e-mail is a -- reflects  
10 this attempt to set up an interview back in 2012, early  
11 2012?

12 A That's correct.

13 Q Now, I know you're not on these e-mails, but is this  
14 a fair reflection of your recollection as well?

15 A My recollection was there was a -- a scheduled  
16 interview, yes.

17 MR. BURCK: Your Honor, we would offer RM-2072  
18 into evidence.

19 MS. ABER: I object. He's not on the e-mails.  
20 He's testified about his knowledge.

21 THE COURT: Sustained.

22 MR. BURCK: You can take that down.

23 Can you also show the witness RM-2074. Just for the  
24 witness.

25 Now, you'll see this is an e-mail from Mr. Flaherty

1 to Mr. Michael Morehart. Do you know who Michael Morehart  
2 is?

3 A Yes, I do.

4 Q Who is he?

5 A Well, I've known him for many years. I knew him when  
6 he was with the FBI. I used to car pool with him up to  
7 Washington headquarters. And I know that he became the  
8 Special Agent in charge of the FBI office here in  
9 Richmond, and then he also become the first Inspector  
10 General for the State of Virginia.

11 Q Okay. Now, you see this e-mail suggests that a  
12 meeting was canceled, an interview. Do you have any  
13 recollection of whether or not that interview occurred  
14 with Maureen McDonnell on that date?

15 A It did not.

16 Q It did not. It was canceled?

17 A Yes, sir.

18 MR. BURCK: You can take that down. Thank you.

19 BY MR. BURCK:

20 Q And why was it canceled?

21 A At that time, we were starting to find additional  
22 checks made payable to Ms. McDonnell. So we asked to hold  
23 back until we could further find out what was going on  
24 before we interviewed.

25 Q Okay. So this was in February, March of 2012 you had

1 discovered additional checks -- or checks involving  
2 Ms. McDonnell?

3 A No. This was the \$15,000 check. We found out -- we  
4 were told on February 22nd, from Ryan Greer, about the  
5 \$15,000 check.

6 Q And this is -- so you knew -- you had learned about  
7 the check for Cailin's wedding. And had you learned about  
8 the \$50,000 loan as well?

9 A No, I was not at that time.

10 Q Just the \$15,000 check for Cailin's wedding?

11 A I was aware of the \$15,000 check, yes. But I had not  
12 obtained a copy of it yet.

13 Q Okay. Now, back at this time, were you working with  
14 the FBI on these investigations?

15 A Yes. We worked everything jointly.

16 Q And there was a meeting between yourself, Colonel  
17 Flaherty, who you testified about earlier, FBI Special  
18 Agent Tyler Kennedy and others to discuss the Mansion  
19 investigation, is that right, in January 2012?

20 How about I do this.

21 MR. BURCK: Can you show the witness RM-2067.  
22 Just the witness, please.

23 BY MR. BURCK:

24 Q And what I would ask you to do is just take a look at  
25 that page, and this is just to refresh your recollection.

1 If this reminds you of anything in January of 2012?

2 A Yes.

3 Q So do you recall if you had a meeting with Colonel  
4 Steven Flaherty, Special Agent Tyler Kennedy, and yourself  
5 about the Mansion investigation?

6 A That's correct.

7 Q And this was the -- this was the -- the period of  
8 time, meaning this meeting, that you learned that Jonnie  
9 Williams had given a \$15,000 check for Cailin's wedding,  
10 right?

11 A No.

12 Q No.

13 A No.

14 Q Go ahead, please.

15 A All right. This is -- in January 30th. This is when  
16 we first became aware of the allegations about the chef  
17 and the embezzlement. I was called at home that night  
18 before the meeting, was told to report to the Colonel's  
19 office the next morning and -- they didn't tell me why.

20 And when I arrived, I met Agent Kennedy and his  
21 assistant, Special Agent Allie Mackenzie.

22 Q Okay. So when did you learn, if you can recall,  
23 about the Cailin check precisely?

24 A We were first -- all right. Based on the January  
25 30th meeting, they provided us the information about the

1 chef embezzlement. They had the information first. They  
2 passed it off to us. We started looking into the matter.  
3 On February 22nd, I interviewed Ryan Greer. That's when  
4 he mentioned the \$15,000 check.

5 Q Okay.

6 A I was able to obtain a copy of the check by -- I  
7 believe it was March 1st, from BB&T. And that's when I  
8 had a copy of the check.

9 Q Okay. And Ryan Greer, he worked with Todd Schneider?

10 A Yes. He was the general manager for Todd Schneider's  
11 catering company.

12 Q Okay. And around this time, when did you learn about  
13 the Roskamp visit by Ms. McDonnell?

14 A It would have been after March 1st.

15 Q After March 1st? Do you know -- is it around  
16 March 1st or long after March 1st? Do you have a  
17 recollection?

18 A I know it was between March 1st and May 23rd when I  
19 briefed my bosses on the matter.

20 Q Okay. And it was around this time that the FBI  
21 opened a wire fraud or public corruption investigation of  
22 the McDonnells?

23 A My understanding is back in January they opened it,  
24 or maybe February. I don't know when they opened it,  
25 specifically. But we worked it jointly.

1 Q Okay. So -- but around --

2 A As of January 30th, we worked it jointly.

3 Q Okay. And this was the -- just to make sure I'm  
4 clear, because there were two different investigations.

5 A Yes.

6 Q This was -- the wire fraud/public corruption  
7 investigation of the McDonnells had been opened in that  
8 time frame as well?

9 A The McDonnells had not been opened yet. No.

10 Q Okay. I'm sorry. So the McDonnells were opened in  
11 March of 2012?

12 A I -- what happened was on March 8th, we had met with  
13 Todd Schneider and his attorney. They provided us with  
14 the contract that the Governor had signed for the wedding.

15 And as a result of that, since it appeared that there  
16 might be something that -- some illegality by the  
17 Governor, I was -- by rule, or by law, I have to stop  
18 investigating because he's an elected official. And  
19 that's what happened.

20 Q Okay.

21 MR. BURCK: Could you show, just for the witness  
22 only, RM-2068, please. Page 2, please.

23 BY MR. BURCK:

24 Q You see some highlighting. This is just for ease so  
25 that you can read it more easily.

1 By the way, do you recognize the handwriting on this?

2 A No.

3 Q Does this document refresh your recollection as to  
4 about when a wire fraud/public corruption investigation  
5 was opened by the FBI into the McDonnells?

6 A No, it does not.

7 Q Okay.

8 MR. BURCK: Please take that down.

9 BY MR. BURCK:

10 Q Now, the FBI and the -- and the Virginia State  
11 Police, is that common for the FBI and the Virginia State  
12 Police to work together on investigations?

13 A Yes, sir, it is.

14 Q And it's common for public corruption cases; isn't  
15 that right?

16 A Yes.

17 Q Is there -- would it be fair to say that it enhances  
18 the credibility of an investigation if the FBI is  
19 involved?

20 A That, and also what it does, it -- for the State  
21 Police, I know in this particular investigation, since it  
22 regarded the Executive Mansion and the Governor, my  
23 management wanted very much to have an outside agency to  
24 basically investigate it with us so it wouldn't look like  
25 we were trying to -- if it was unfounded, that we were



1 trying to, you know, slip it underneath the rug or  
2 something. So they wanted to have an outside, independent  
3 agency investigating with us.

4 Q Okay. And that's -- and, again, that's Special Agent  
5 Tyler Kennedy --

6 A Yes.

7 Q -- who was the -- and is he here in the courtroom  
8 today?

9 A Yes, he is.

10 Q He's sitting over here at the prosecution table?

11 A Yes.

12 Q Next to Mr. Dry?

13 A Yes.

14 Q Okay.

15 MR. BURCK: Your Honor, I have quite a bit left.  
16 So I don't know if you want to stop now or --

17 THE COURT: All right. We'll stop here for  
18 lunch. And let's make it 2:05. We'll get back and get  
19 started with the afternoon session.

20 (The jury left the courtroom.)

21 ///

22 ///

23 ///

24 ///

25 ///

**CHARLES HAGAN - CROSS - BURCK**

2952

1 (Luncheon recess taken from 1:01 p.m. to 2:05  
2 p.m.)

3 THE COURT: All right, let's bring in the jury,  
4 please.

5 (The jury entered the courtroom.)

6 All right, Mr. Burck?

7 CROSS-EXAMINATION (Cont'd.)

8 BY MR. BURCK:

9 Q Special Agent Hagan, I know you have been doing  
10 this for 30 years, so I'm going to ask you this for the  
11 record. You didn't speak to the prosecutors during the  
12 break, right?

13 A At lunch?

14 Q Yes, sir.

15 A No, I did not, sir.

16 Q Just to reorient you where we were before we broke,  
17 we were talking about the 2012 period and the  
18 investigations that led up to the McDonnells -- the  
19 charges that were brought in this case.

20 A Okay.

21 Q And in 2012, at this point, you were also looking at  
22 Jonnie Williams; is that right?

23 A I don't know what point you are talking about.  
24 Around the end of March, April is when we began looking  
25 into Jonnie Williams, yes.

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1 Q You were looking at securities fraud issues related  
2 to him; is that right?

3 A Yes, sir.

4 Q Now, on May 23rd, 2012, I think you testified a bit  
5 about this on direct, you had a briefing about the  
6 investigation, the status of the investigations that were  
7 going on at the time, right?

8 A That's correct.

9 Q And the status, the briefing was about Jonnie  
10 Williams, about Chef Todd Schneider, and also about the  
11 McDonnells investigation; is that right?

12 A That's correct.

13 Q And you drafted a memo that would summarize how you  
14 saw the investigation at that time and the facts that you  
15 had developed and the legal theories you were looking at  
16 at the time, right?

17 A Well, yes. It wasn't a memo. It was notes from  
18 myself to present to the upper management, yes.

19 Q If you could just show just for the witness only,  
20 this would be RM-0016. Now, sir, this is the document,  
21 the notes that you prepared for yourself, right?

22 A That's correct.

23 Q And the first part of this document is about Todd  
24 Schneider, the Todd Schneider investigation?

25 A That's correct, sir.

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1 Q Then if you turn to the third page of the document,  
2 you will see that this section is where it begins to  
3 discuss the Robert and Maureen McDonnell investigation?

4 A Correct.

5 Q And then you walk through, I think, in this document  
6 the various aspects of your investigation, the various  
7 suspicions you are looking at, the facts you are looking  
8 at, right?

9 A Suspicions and then anticipated additional  
10 investigation that was going to be needed. Yes.

11 Q Okay. And then on the second-to-last page, under  
12 Number 7, that's where you start talking about Jonnie  
13 Williams and his companies?

14 A Yes.

15 Q Okay. Then on the last page, this is the end of the  
16 document, right?

17 A Right. That's where it says "Additional  
18 Investigation," that's what I anticipated would happen, we  
19 would have to look at.

20 Q At this time on May 23rd of 2012, at this point, had  
21 you concluded that gifts to, or say, money to Maureen  
22 McDonnell was not illegal?

23 A No.

24 MS. ABER: Objection, Your Honor.

25 THE COURT: Sustained. His legal conclusion is

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1 not relevant.

2 BY MR. BURCK:

3 Q Let me ask you this: Had you been told by someone  
4 that money to Maureen McDonnell was not illegal?

5 MS. ABER: Objection.

6 THE COURT: Sustained.

7 BY MR. BURCK:

8 Q Were you told as part of your investigation, had you  
9 been told by anyone that the Governor was not required to  
10 list gifts to his spouse?

11 MS. ABER: Objection.

12 THE COURT: He can answer that.

13 THE WITNESS: I don't know if someone told me  
14 that, but reading the statute, if it was gifts, it was  
15 gifts for the Governor, not for his immediate family.

16 BY MR. BURCK:

17 Q And at this point in the investigation, had  
18 you -- were you suspicious that Jonnie Williams had  
19 possibly committed securities fraud?

20 A There were indications, yes. We were starting  
21 to -- we, Agent Kennedy and myself were starting to  
22 receive some of the documentation that we had subpoenaed  
23 underneath the state subpoena power, and it appeared there  
24 might be, yes.

25 Q Okay. And did you also have suspicions that Jonnie

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1 Williams had committed fraud in obtaining financing for  
2 his company?

3 A Suspensions, yes.

4 Q Okay. And did you wonder at the time whether or not  
5 you could use Williams to go after the McDonnells?

6 A It was a possibility down the road, yes.

7 Q Okay. And what did you mean by that? What was your  
8 thinking at that point?

9 A Well, what I had at the time was I had the \$15,000  
10 check that was to the Governor's benefit. It was not  
11 reported on his Statement of Economic Interests, which is,  
12 at that time, I thought was a violation. I had the  
13 \$50,000 that was being given to Maureen. I didn't know  
14 what that was. If it was a loan, it should have been  
15 reported. It wasn't on the Statement of Economic  
16 Interests form. If the \$50,000 was for her services to go  
17 to Roskamp and talk on behalf of Star Scientific, that  
18 wasn't reported, which should have been reported. And if  
19 it was considered a gift, then it did not have to be  
20 reported.

21 Q Okay. So why were you saying or why were you  
22 thinking that you could use Williams to go after the  
23 McDonnells?

24 A Well, someone was going to have to tell me eventually  
25 down the road what kind of document was this, what was the

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1 \$50,000 for.

2 Q Okay. But you knew or you suspected at that time  
3 that Mr. Williams had committed securities fraud in a  
4 separate matter.

5 A Yes. We suspected, yes.

6 Q Okay. Is it fair to say that you thought you could  
7 use the fact that Mr. Williams might have committed fraud  
8 in something else to get him to assist you against the  
9 McDonnells?

10 A Yes.

11 Q And this is May 23rd of 2012, right?

12 A Right. And this was what I anticipated what was  
13 going to happen. There was a lot more work to be done  
14 because we weren't trying to go overt yet.

15 Q The investigation is ongoing, you are looking for  
16 leads and facts, et cetera. Right?

17 A I was letting my bosses know that this was going to  
18 be a prolonged investigation; it was not something that  
19 was going to be handled or resolved quickly.

20 Q And of those bosses was Colonel Flaherty, right?

21 A Yes, sir.

22 Q As of May 23rd of 2012, you had not interviewed  
23 Maureen McDonnell, right?

24 A No, we didn't go overt until January of 2013.

25 Q You had not interviewed Jonnie Williams at that

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1 point, either?

2 A No, we had not.

3 Q You testified that you were investigating  
4 Mr. Williams on direct, so I'd like to ask you a little  
5 bit about that interview in January of 2013. Now, that  
6 interview occurred on January 23rd, 2013; is that right?

7 A 23rd, yes.

8 Q Okay. That was you and Special Agent Tyler Kennedy  
9 of the FBI?

10 A Yes.

11 Q And you showed up at Mr. Williams' house unannounced,  
12 right?

13 A Correct.

14 Q And you started asking him questions about his  
15 potential violation of securities laws.

16 A Yes, sir.

17 Q You asked him about a possible scheme to sell his  
18 stock through John McKeon without reporting it; is that  
19 right?

20 A It was more of a collateralization of stock for a  
21 loan that Mr. McKeon had provided to Jonnie Williams.

22 Q And the reason why you were asking about that is  
23 because you thought it might constitute a securities  
24 fraud?

25 A Yes.



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1 Q Okay. And you were asking about transfers of shares  
2 to his children, right?

3 MS. ABER: I have to object as this being beyond  
4 the scope of direct examination. If they want to make  
5 Special Agent Hagan their witness, that's fine.

6 THE COURT: Our philosophy is exhaust the  
7 witness. You go ahead.

8 BY MR. BURCK:

9 Q So you asked him about transfers of shares to his own  
10 children, right?

11 A Yes.

12 Q And you asked him about withdrawals from a trust set  
13 up for his children.

14 A Yes.

15 Q And your reason for asking these questions, again,  
16 was because you thought he might have committed some kind  
17 of securities fraud, all those questions.

18 A Yes.

19 Q At some point in the interview or the meeting -- by  
20 the way, Mr. Williams, he was alone, right?

21 A Yes, he was.

22 Q Okay. And he didn't have any lawyers with him or  
23 anything like that.

24 A No, he did not.

25 Q Now, at some point in that interview you started

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1 asking him about his relationship with the McDonnells,  
2 right?

3 A That's correct.

4 Q And he told you that he had provided Maureen  
5 McDonnell with a \$50,000 loan, right?

6 A Correct.

7 Q He said it was a personal loan.

8 A Yes.

9 Q And he told you that it was two days after he gave  
10 the \$50,000 loan to Ms. McDonnell that Governor McDonnell  
11 called him on his cell phone to discuss the loan, right?

12 A That's my recollection, yes.

13 Q Okay. And he said that Governor McDonnell would  
14 repay the loan when the real estate situation had  
15 improved.

16 A Right. He was explaining that there was no due date.  
17 He said when things got better, he would end up paying it.

18 Q He also told you about the \$15,000 wedding gift for  
19 Cailin McDonnell, right?

20 A Yes.

21 Q And he said that the Governor and he were friends?

22 A Yes, he did.

23 Q And he said that the Governor was the best Governor  
24 Virginia had ever had, something like that?

25 A That's correct.

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1 Q And he said that he never got anything in return for  
2 the \$50,000 personal loan to Maureen McDonnell, right? He  
3 said that?

4 A Yes, he did.

5 Q And he said that he never asked for anything from the  
6 Governor and never expected anything from him; is that  
7 right?

8 A I don't remember expected, but he did not ask for  
9 anything or receive anything, yes.

10 Q He told you also that Maureen McDonnell was into  
11 wellness, into his products, right? He said that?

12 A Yes, he did.

13 Q And he also said that he had never paid Maureen  
14 McDonnell for anything, right?

15 A Yes, he did.

16 Q Now, he also asked you several questions generally  
17 about the investigation, like whether or not he was a  
18 target of the investigation?

19 A That was in the beginning of the interview, yes.

20 Q So he asked you is he a target.

21 A Yes.

22 Q What did you say?

23 A I didn't say anything.

24 Q You just didn't answer the question?

25 A I wasn't the lead for the interview. Agent Kennedy

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1 was.

2 Q So what did he say, if you recall?

3 A He told him that, he said he did not have a target  
4 letter for Mr. Williams, and that there was a grand jury  
5 investigation going on, but he did not have a target  
6 letter for him.

7 Q Okay. So did he say how long -- I'm sorry, did  
8 Mr. Williams ask Tyler Kennedy or yourself how long the  
9 investigation would last?

10 A Yes, he did ask that.

11 Q What did you say or what did Special Agent Kennedy  
12 say?

13 A Well, both of us explained some of that, because  
14 Agent Kennedy talked about the federal grand jury portion  
15 of it, and I had the state grand jury portion of it. And  
16 we basically told him we didn't know how long it would  
17 take.

18 Q So Special Agent Kennedy, because he is with the FBI,  
19 talked about the federal grand jury investigation at that  
20 time?

21 A That's my recollection.

22 Q It is your understanding there was a federal grand  
23 jury investigation at that time?

24 A Yes, there was.

25 Q This is on January 23rd, 2013.

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1 A That's correct. I believe it was in July, 2012, the  
2 U.S. Attorney's Office opened up a federal grand jury  
3 investigation on the securities case.

4 Q That's on Mr. Williams' securities case?

5 A Right.

6 Q Then the grand jury, federal grand jury investigation  
7 that you are talking about in January of 2013 -- January  
8 23rd, 2012, just so I'm clear, this is a grand jury  
9 investigation about Mr. Williams only, or also about the  
10 McDonnells?

11 A At the time it was Mr. Williams and everything that  
12 fell underneath it, yes.

13 Q So it included the McDonnells?

14 A I don't know if it did. I was pursuing the, at the  
15 time, we thought we had state charges against the  
16 McDonnells, so that was being pursued on the state grand  
17 jury. The time of the interview was underneath the  
18 federal grand jury, so in answer to your question, it was  
19 two separate grand juries going on.

20 Q But again, I just want to be clear, there is a  
21 federal grand jury investigation that covered Williams and  
22 there was a state grand jury investigation that covered  
23 the McDonnells?

24 A That's correct.

25 Q Was there overlap between the two?

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1 A No. No, because my recollection is most of the  
2 federal grand juries were to get bank records. At that  
3 time, that was our first overt interview, so everything  
4 had been done collecting documents, and it was usually  
5 done by the particular grand jury that was, whatever we  
6 were looking at at the time.

7 Q Okay. Now, as part of the collecting the documents,  
8 you and Special Agent Kennedy would serve subpoenas,  
9 right?

10 A Yes, sir.

11 Q Did you give Mr. Williams a subpoena at this  
12 interview on January 23rd, 2013?

13 A Agent Kennedy served him with a federal grand jury  
14 subpoena, yes.

15 Q Okay. He served him with a federal grand jury  
16 subpoena?

17 A Correct.

18 Q And this was for records in his possession?

19 A Yes.

20 Q Relating to what?

21 A Star Scientific. I don't remember the specifics of  
22 the subpoena, but anything that related to his dealings as  
23 part of Star Scientific.

24 Q Okay. Would that subpoena, did that subpoena cover  
25 the McDonnells as well?

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1 A No. Not that I am aware of, no.

2 Q Did you give him a state grand jury subpoena?

3 A No, I did not.

4 Q Okay. And as part of this meeting, did you take  
5 notes of the meeting?

6 A Yes, I did.

7 Q So did Special Agent Kennedy, he did most of the  
8 questioning?

9 A He did.

10 Q You took the notes?

11 A Yes, sir.

12 Q A little different than what you did with  
13 Ms. McDonnell, where you both took notes and listened.

14 A That's correct.

15 Q We talked about this at the beginning: You were  
16 trained in how to take notes of things that had happened  
17 in the meeting, right?

18 A I mean, trained to take notes, no. I mean, you were  
19 trained you should take notes to help you recollect, but  
20 not how to take them, no.

21 Q Is it fair to say that your notes are intended to  
22 help you remember the important things that happened in  
23 the meeting?

24 A Yes. What's relevant.

25 Q Okay. Now, during this interview or near the end,

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1 did you or Special Agent Kennedy ask Mr. Williams to wear  
2 a wire against Governor McDonnell?

3 A It wasn't that specific. What happened was,  
4 Mr. Williams, after we had basically concluded the  
5 interview, said he was willing -- he was going to contact  
6 his attorneys, he was going to cooperate with the  
7 investigators, he was going to turn over documents that we  
8 wanted, and I mentioned to him, "Would that also include  
9 consensually monitoring a conversation some day?" So it  
10 was not specifically to Mr. McDonnell.

11 Q So you didn't tell him that it was actually, you were  
12 asking him to record Governor McDonnell?

13 A No. It was more of, "While you are talking to your  
14 attorneys and you want to cooperate, consider this."

15 Q Let me ask you, what was your intention when you said  
16 that? Were you asking him to consider recording Governor  
17 McDonnell?

18 A If it needed to be, yes.

19 Q And he had just told you, though, that --  
20 Mr. Williams had just said he had not gotten anything or  
21 received anything or offered anything. Why did you  
22 not -- why did you want him to consensually record  
23 Governor McDonnell potentially?

24 MS. ABER: Objection.

25 THE COURT: Sustained.



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1 BY MR. BURCK:

2 Q Now, you took the notes of this interview?

3 A I did.

4 Q Those notes don't include a reference to the request  
5 for a consensual recording, do they?

6 A No, they do not.

7 Q Is there a reason why you didn't include those in the  
8 notes?

9 A It was just a suggestion to him. It was nothing that  
10 was specific.

11 Q But he did end the interview after you said, you  
12 asked him whether or not he would consensually record?

13 A That wasn't the last thing that was said, but it was  
14 in that little segment of explaining where he said he  
15 wanted to cooperate and we threw that out to him.

16 Q Okay. And you informed the prosecutors about the  
17 request for consensual recording while this trial had  
18 occurred, right, the first time you told them about it?  
19 I'm sorry, let me be more clear. The trial started on  
20 July 28th, last month.

21 A That's correct.

22 Q You first told the prosecutors about the consensual  
23 recording request after the trial had started.

24 MS. ABER: Objection, relevance.

25 THE COURT: Sustained.

**CHARLES HAGAN - CROSS - BURCK**

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1 BY MR. BURCK:

2 Q Going on to Maureen McDonnell's interview, which  
3 occurred about three weeks or so after the Jonnie Williams  
4 interview, which was on February 15th, 2013. Remember  
5 that interview?

6 A I do.

7 Q Now, if you would call up, publish RM-2028, which has  
8 already been admitted into evidence. If you could blow up  
9 the bottom e-mail, please. Now, sir, you are not on this  
10 e-mail, but this e-mail is in evidence and it is an e-mail  
11 from Steven Flaherty to Martin Kent. I think you  
12 testified earlier that Mr. Flaherty was your supervisor?

13 A He is the Colonel of the State Police,  
14 Superintendent.

15 Q He is one of the people that you were keeping  
16 informed of the progress of your investigation of the  
17 McDonnells and Mr. Williams?

18 A Yes. He wasn't there for all of the updates. He  
19 would be there occasionally when he could, because he was  
20 busy. But yes, at times he was there present when I was  
21 filling him in.

22 Q He was aware that you were investigating the  
23 McDonnells?

24 A Yes, he was.

25 Q Okay. And as of February 13th of 2013, a year ago,

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1 did he know that you were investigating the McDonnells?

2 A Yes, he did.

3 Q And when -- that week, before you went to interview  
4 Ms. McDonnell, was he aware that you were planning to  
5 interview Ms. McDonnell about the Jonnie Williams matter?

6 A I'm sorry, I lost that.

7 Q Was he aware as of this week, the week of February  
8 13th?

9 MS. ABER: Objection. He knows whether the  
10 Colonel was aware or not?

11 THE COURT: He can answer.

12 THE WITNESS: Judging from this e-mail, yes, he  
13 was aware that we wanted to.

14 BY MR. BURCK:

15 Q You had spoken to him about it.

16 A I don't know if I spoke to him specifically  
17 one-on-one about it. I did speak to the executive  
18 management. It could have been the Major or Lieutenant  
19 Colonel. But I don't have any clear recollection of  
20 actually talking to the Colonel and saying I wanted to.  
21 It may have worked its way up the chain.

22 Q You testified that you were diligent about keeping  
23 your supervisors apprised of the progress of this  
24 investigation, right?

25 A Yes.

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1 Q Okay. Now, this e-mail, as you will see, Martin  
2 Kent, you also testified earlier, is the Chief of Staff to  
3 the Governor. And in this e-mail, Colonel Flaherty says,  
4 "We want to wrap up the Chef Todd case, plan to go to the  
5 grand jury next week. If the First Lady is available  
6 Friday, you can block off about two hours to talk to  
7 Charlie Hagan and Tyler Kennedy we would appreciate it.  
8 Thanks, Steve." That e-mail doesn't reference anything  
9 about the Jonnie Williams investigation relating to the  
10 McDonnells, right?

11 A No, it does not.

12 Q Okay. Going into that meeting -- you can take that  
13 down. Going into that meeting, did you have a discussion  
14 with anybody at the Office of the Governor prior to  
15 showing up on the 15th of February to interview Maureen  
16 McDonnell?

17 A I was instructed by someone from the executive  
18 management to call Ms. McDonnell's scheduler and confirm a  
19 meeting, which I did. The lady asked what it was about,  
20 and I said, "She knows."

21 Q "She knows," meaning Maureen McDonnell knows?

22 A Yes.

23 Q Okay. And do you remember, you said executive  
24 management. Do you remember who it was who told you to  
25 call?

**CHARLES HAGAN - CROSS - BURCK**

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1 A No, I don't recall. Probably the Major, but -- the  
2 Major is the one that would usually communicate with me,  
3 but I had no clear recollection of the individual or when  
4 it was done.

5 Q What's the Major's last name?

6 A Jenkins.

7 Q Major Jenkins. We saw him from an earlier e-mail,  
8 the first time you wanted to interview Maureen McDonnell.

9 A Yes.

10 Q This is the second effort to interview her, because  
11 the first time you had canceled?

12 A Correct.

13 Q Now, you show up at the Mansion. Do you show up with  
14 Special Agent Kennedy?

15 A No, I did not.

16 Q So it was just yourself and --

17 A Special Agent Lyons.

18 Q Was Special Agent Kennedy supposed to be at the  
19 interview?

20 MS. ABER: Objection, relevance.

21 THE COURT: Sustained.

22 BY MR. BURCK:

23 Q So it was just yourself and Special Agent Lyons?

24 A Correct.

25 Q And when you meet Ms. McDonnell, you go into her

**CHARLES HAGAN - CROSS - BURCK**

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1 office; is that right?

2 A I presume it was her office. No one ever told me it  
3 was, but it appeared to be, yes.

4 Q Did you have an understanding of Martin Kent, you  
5 know he was the Chief of Staff, did you know that he had  
6 requested to be part of that interview?

7 A I have no recollection of him wanting to be part of  
8 the interview for the second interview. I know he wanted  
9 to be there for the first one that was set up that was  
10 eventually canceled.

11 Q Right. But you have testified earlier that your  
12 practice is not to have a second person who you are not  
13 interviewing present.

14 A Right. I recall being asked if I would want him  
15 present, and I said, "No."

16 Q Okay. And you don't recall if that happened in 2012  
17 or 2013?

18 A Right.

19 Q Okay. So the interview starts at around 1 o'clock on  
20 the 15th? Roughly?

21 A I think so, yes.

22 Q And again, Colonel Flaherty had contacted Mr. Kent 48  
23 hours before, right?

24 A It appears from the e-mail you showed me, yes.

25 Q Okay. Now, you conducted the interview, Mr. Lyons

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1 sat there.

2 A Correct.

3 Q Did he ask any questions at all that you can recall?

4 A He may have asked one or two, but I don't know what  
5 they were. I don't recall what they were.

6 Q You testified earlier that he hadn't really been  
7 involved in this investigation at all.

8 A He wasn't. He wasn't involved.

9 Q He wasn't involved at all until this day.

10 A Right.

11 Q And why was it that you brought him and not Special  
12 Agent Kennedy?

13 MS. ABER: Objection.

14 THE COURT: Sustained.

15 BY MR. BURCK:

16 Q And Ms. McDonnell did not have an attorney present,  
17 right, for the interview?

18 A That's correct.

19 Q Now, at the beginning of the interview, at any point,  
20 did you advise Ms. McDonnell that she was under  
21 investigation?

22 A No, I did not.

23 Q At any point, did you advise her that she has a right  
24 to an attorney?

25 A She was not -- it was not a custodial interview.

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1 Q Custodial interview, right. You did not advise her  
2 that she had a right to remain silent?

3 A No. It wasn't custodial.

4 Q You started the interview by asking her about the  
5 chef, Todd Schneider, and his theft issues, right?

6 A Well, I mean, I started by talking about our common  
7 denominators, yes. But then the meat of it, yes, we  
8 started talking about Todd Schneider. Of course, the AG's  
9 office was anticipating indicting him relatively soon.

10 Q And at the beginning of the interview, you said,  
11 testified on direct that you were trying to build a  
12 rapport with her.

13 A That's correct.

14 Q You said that she had worked at the FBI?

15 A Yes.

16 Q Do you know what she did at the FBI?

17 A No.

18 Q Okay. Was she a lawyer? Do you know if  
19 Ms. McDonnell is a lawyer?

20 A No, not that I am aware of.

21 Q And you also testified that she mentioned at some  
22 point during the interview or the part of the interview  
23 about Jonnie Williams, that she said that her husband had  
24 met him 30 years before or knew him for 30 years? Do you  
25 remember that?



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1 A I don't know if I said 30 years. I think I said when  
2 he got out of the Army, he took a job with American  
3 Hospital Supply, and that's where he met Jonnie Williams,  
4 who also worked for American Hospital Supply as a  
5 representative.

6 Q Okay. Do you recall that in fact what she said was  
7 that her husband and Mr. Williams had overlapped at  
8 American Hospital Supply sometime many years before and  
9 that's the original connection?

10 A That's not my recollection of what she told me.

11 Q Okay. Now, you prepared -- while you were listening  
12 to the interview, you are taking notes, right?

13 A Correct.

14 Q And you also eventually, or maybe the next day, you  
15 do a typed-up version of your handwritten notes, right?

16 A I do a summary of what she told us during the  
17 interview to my best recollection while I'm looking at the  
18 notes helping refresh my memory.

19 Q Okay.

20 A I'm not taking the notes and writing them on a  
21 document.

22 Q I'm sorry. But you are handwriting the notes and  
23 then separately later on you use those notes to write the  
24 typed-up version?

25 A Yes, that's what I do.

**CHARLES HAGAN - CROSS - BURCK**

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1 Q Okay. Now, just focusing on what you have testified  
2 Ms. McDonnell said during the interview about Jonnie  
3 Williams and her relationship and the Governor's  
4 relationship with Jonnie Williams, let's just focus on  
5 that, you testified that Ms. McDonnell said that she  
6 had -- she had received a \$50,000 check as a personal loan  
7 from Jonnie Williams, right?

8 A That's correct.

9 Q And she also said that, this is nothing you testified  
10 to, but I'm asking you the question, she also said that  
11 Jonnie Williams, that she had asked Jonnie Williams for a  
12 loan to help with the McDonnells' expenses and cash flow.  
13 Do you recall that she said that?

14 A I don't remember if there was a -- those were the  
15 specific words, but yes, they had accumulated some debts  
16 with regards to the election. There was also something  
17 about some houses that they rented, some beach houses.

18 Q And you also testified that she said she had a  
19 written agreement or contract with Mr. Williams?

20 A Yes.

21 Q And that she was making periodic payments to satisfy  
22 that loan.

23 A That's correct.

24 Q And you also testified that she had or could get a  
25 copy of the loan.

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1 A Yes.

2 Q And again, you said that, I think you already  
3 testified to this, but just to be clear, you said she also  
4 said that Jonnie Williams and the Governor had been  
5 friends for many years, right?

6 A Since the Governor left the Army. I don't know when  
7 he left, so I can't say how long.

8 Q What I would like to do is just show you now RM-2079,  
9 which is just for the witness. Okay. Now, these are your  
10 handwritten notes of that interview?

11 A Yes.

12 Q Okay. Now, let me ask you just some questions about  
13 the notes. Again, these are the notes that you took while  
14 you were listening to her.

15 A Yes.

16 Q Now, these notes don't say anything about a written  
17 contract, do they? You can read it, if you would like to  
18 spend a minute to look it over.

19 A Yeah, I'd like to. Can you make it bigger?

20 Q Sure. Actually, what we will do is, we will do even  
21 better. We will turn you to the right section of the  
22 notes. Please show the witness 2079-0004. That's easier,  
23 I think.

24 (Document displayed to witness.)

25 A That little segment that you are showing me does not

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1 say anything about, except for written notes, it says, "I  
2 have a contract."

3 Q Doesn't say "written contract"?

4 A No.

5 Q And what about, does it say anything about periodic  
6 payments being made?

7 A "I am paying back."

8 Q It says, "I am paying back"?

9 A Uh-huh.

10 Q Does it say anything about periodic payments being  
11 made?

12 A No. Doesn't say specifically periodic.

13 Q It says "I am paying back."

14 A Right. That's this section. I haven't seen the rest  
15 of it.

16 Q Did you have a chance to review your notes as part of  
17 the -- preparing for trial today?

18 A Yes, I tried to. I have done a lot of interviews.

19 Q I understand. I'll give you, with the Court's  
20 indulgence, I'll let you, there are two pages of  
21 handwritten notes that you can review right now. This is  
22 your handwriting.

23 MR. BURCK: I don't think it will take more than  
24 a couple minutes, Your Honor.

25 THE COURT: Go ahead. Have you got the hard

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1 copy of this?

2 MR. BURCK: Oh, yes, Your Honor, that would be  
3 easier.

4 (Document proffered to witness.)

5 (Witness perusing document.)

6 THE WITNESS: Okay.

7 BY MR. BURCK:

8 Q So can you tell us now, do the notes say anything  
9 about -- I'm sorry, I've lost what I was asking you about.

10 A written contract?

11 A No, it just says "contract."

12 Q Does it say anything about periodic payments?

13 A Just says "paying back."

14 Q Does it say anything about Jonnie Williams being a  
15 friend for many years? Look at the top of the page, I'll  
16 just direct you to it, the third-to-last page. The very  
17 top.

18 A Okay. Yes, it says that "Williams was a family  
19 friend."

20 Q So it doesn't say "many years."

21 A No.

22 Q "He had been a friend for many years."

23 A No.

24 Q Does it say anything about a signed agreement? I  
25 think you testified she said she had also signed this

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1 written contract.

2 A That's correct.

3 Q Do the notes say anything about a signed agreement?

4 A No, they do not.

5 Q Now, during the interview, Ms. McDonnell one time or  
6 twice, actually, asked to speak to her husband, didn't  
7 she?

8 A No.

9 Q She never asked to speak to her husband?

10 A No.

11 Q Okay. That's not you don't recall; that didn't  
12 happen, right?

13 A I have no recollection of her saying that, yes.

14 Q Okay. And you said that she tensed up or she became  
15 more, her demeanor became more tense when you started  
16 asking her about the Jonnie Williams checks?

17 A Yes. When I say "tensed up," I didn't use -- she  
18 became more inquisitive, why we were asking.

19 Q Had you told her prior to entering the meeting that  
20 this meeting was going to be about Jonnie Williams as well  
21 as Chef Todd Schneider?

22 A I didn't talk to her at all prior to the interview.

23 Q Okay. Did you hear Special Agent Lyons say anything  
24 to her prior to going into the meeting that this was going  
25 to be about Jonnie Williams as well as Todd Schneider?

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1 A No, I don't remember him saying that.

2 Q So as far as you know, she has no idea what the  
3 interview is about?

4 A That's correct.

5 Q Although you did say, "She knows what it is about"  
6 before.

7 A Yes.

8 Q You didn't really mean that?

9 A No, I meant it, because I knew that the Executive  
10 Office had set up the interview. And I didn't want to  
11 tell the scheduler what I was there for. So she had been  
12 told by the executive staff what. What that was, I don't  
13 know.

14 Q Understood. And just one last question: In March of  
15 2013, that's about a month after the Maureen McDonnell  
16 interview, you learned from the Tobacco Commission, the  
17 Executive Director of the Tobacco Commission that no one  
18 had approached the Tobacco Commission to initiate a  
19 research project involving anatabine or Anatabloc, right?

20 MS. ABER: Objection.

21 THE COURT: He can answer that.

22 THE WITNESS: I recall interviewing, I think his  
23 name was Neal Noyes, and that's what he told us, yes.

24 MR. BURCK: Thank you, Your Honor. Just one  
25 moment, Your Honor.

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1 THE COURT: Can I see that hard copy?

2 MR. BURCK: I'm sorry, Your Honor. Just for, we  
3 would like to offer the notes, the handwritten notes into  
4 evidence.

5 THE COURT: All right. Is this RM-2079?

6 MR. BURCK: Yes.

7 THE COURT: You had some particular pages?

8 MR. BURCK: Yes, Your Honor. We have  
9 RM-2079-0003, through RM-2079-0005. What we will do is  
10 make sure there is nothing in there that should be  
11 redacted in terms of personal information. But we offer  
12 that, Your Honor.

13 THE COURT: All right. Before I admit them, you  
14 all take care of any redactions.

15 MR. BURCK: Thank you, Your Honor.

16 THE COURT: All right. Mr. McDonnell?

17 CROSS-EXAMINATION

18 BY MR. BROWNLEE:

19 Q Agent Hagan, good afternoon. My name is John  
20 Brownlee, and I represent Bob McDonnell And I have some  
21 questions for you today. Let me begin, I believe you  
22 testified that in a meeting in May of 2012, that you had  
23 anticipated, that was -- at that time, I think you  
24 testified that you anticipated using Mr. Williams to go  
25 after the McDonnells; is that correct?



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1 A That's what I wrote, but what I was explaining to my  
2 supervisors was that we were in the initial stages of the  
3 investigation; it was going to take a lot of documentation  
4 to put it together; and down the line I anticipated  
5 possibly that we would have to get Mr. Williams to tell us  
6 what's going on.

7 Q All right. Now, let me show the witness, just for  
8 the witness, RM-2069. Just blow up just the bottom part  
9 there. Sir, this is an e-mail that you received in  
10 February of 2013 from John C. Bullard. Do you know who  
11 that is?

12 A Yes. Mr. Bullard, B-U-L-L-A-R-D, is the Deputy  
13 Commonwealth's Attorney for the City of Richmond.

14 Q Okay. And you had testified earlier about you had a  
15 state investigation as well; is that correct?

16 A Yes.

17 Q On the McDonnells.

18 A Yes.

19 Q Okay.

20 MR. BROWNLEE: Your Honor, at this time we would  
21 move RM-2069 into evidence.

22 MS. ABER: Objection, Your Honor. This is a  
23 communication between the Special Agent Hagan and the  
24 Commonwealth's Attorney for the City of Richmond and his  
25 deputy about various legal requirements under the PAC

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1 rules.

2 THE COURT: Let me take a look at it, and come  
3 on up here.

4 (At Bench.)

5 MR. BROWNLEE: This is just classic bias  
6 testimony. This was an investigation into PAC resources.  
7 It turned out that they couldn't prosecute the McDonnells  
8 for that. He sent it to his own private e-mail, and then  
9 flips it to us and says, I forgot exactly what he said,  
10 but basically he is disappointed that this didn't work  
11 out. We think it is biased testimony, Your Honor.

12 THE COURT: No. The objection is sustained.

13 (In Open Court.)

14 BY MR. BROWNLEE:

15 Q Now, Agent Hagan, as part of your investigation,  
16 first of all, do you know who Christopher Young is?

17 A Yes, I do.

18 Q Who is Christopher Young?

19 A He is the individual that married Cailin McDonnell.

20 Q Okay. And as part of your investigation in May of  
21 2012, did you and some of your agents put a tail on him  
22 and follow him?

23 A I did a solo surveillance on him. What I believe.  
24 And yes.

25 Q And you went to his place of employment and sat

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1 outside and watched him leave work; is that correct?

2 A That's correct.

3 Q And this is -- he works, he is an engineer?

4 A Yes, he was, or is.

5 Q Okay. And he married Cailin McDonnell; is that  
6 right?

7 A Yes.

8 Q Okay. Also as part of your investigation, did there  
9 come a time when you learned that one of Mr. Williams'  
10 loans went to a company called MoBo?

11 A Yes, I did.

12 Q All right. And you investigated that; is that  
13 correct?

14 A Yes, I did.

15 Q All right. And as part of your investigation, did  
16 you investigate whether or not the Governor's sister was  
17 involved in disguising some loan?

18 A Sister involved with what?

19 Q With attempting to disguise the loan.

20 A I don't recall that.

21 Q Okay.

22 MR. BROWNLEE: May I approach the witness?

23 THE COURT: Go ahead.

24 (Document proffered to witness.)

25 BY MR. BROWNLEE:

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1 Q Look at the last line of the e-mail there, sir.

2 (Witness perusing document.)

3 A Okay.

4 Q All right. Does that refresh your recollection that  
5 part of your investigation, you looked into whether or not  
6 the Governor and his sister were trying to disguise this  
7 loan from it going to their company?

8 A What I was thinking possibly is that the second  
9 \$50,000 loan may have been given to the sister when it  
10 should have been going to Maureen, the wife.

11 Q Okay. So as part of your investigation, you looked  
12 at his sister and her involvement; is that right?

13 A No, did I not look at her involvement. Well, the  
14 check indicated that it was possibly to the sister. And  
15 what I was saying is possibly we need to look into this,  
16 that the \$50,000 may have been to Maureen, but went to the  
17 sister.

18 Q His sister's name is Maureen?

19 A Yeah, that's where the confusion is.

20 Q All right. Now, let me take -- if I can take your  
21 memory to May of 2013. Do you recall having a meeting  
22 with Mr. Dry and Mr. Kilgore and Mr. Kilgore's boss,  
23 Richard Cullen, to discuss this case? Do you remember  
24 that meeting?

25 A I attended several meetings. Can you be more

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1 specific? Mr. Kilgore?

2 Q This is a meeting in which it was yourself,  
3 Mr. Kilgore -- I tell you what. Since you are having  
4 trouble, let me just show you --

5 MR. DRY: Your Honor, may we approach?

6 THE COURT: Come on up.

7 (At Bench.)

8 MR. DRY: Judge, Mr. Brownlee has asked me about  
9 whether there was any kind of meeting like this. He has  
10 handwritten notes. I'm not sure whose they are, but they  
11 are not this witness's, and this meeting never occurred.  
12 I told Mr. Brownlee that. Now what he is trying to do is  
13 dirty up the prosecution team with these kinds of  
14 questions. This meeting never occurred and it is  
15 irrelevant what meetings happened.

16 THE COURT: What is it regarding this?

17 MR. BROWNLEE: The government just called as  
18 their witness Jerry Kilgore. These are notes from the  
19 Superintendent of State Police which indicates Charlie  
20 Hagan met with Mike Dry, Kilgore, Williams' attorney and  
21 Richard Cullen to discuss the federal case. He agreed to  
22 testimony, by documents and testimony they could prove the  
23 payments to McDonnell were not loans. So their last  
24 witness --

25 MR. DRY: You should have asked Mr. Kilgore

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1 about it.

2 THE COURT: The objection is sustained.

3 MR. BROWNLEE: Thank you.

4 (In Open Court.)

5 BY MR. BROWNLEE:

6 Q Agent Hagan, let me ask you, do you know an  
7 individual named Marc Wiley?

8 A Yes, I do.

9 Q Marc Wiley is, at the time of the investigation, was  
10 in charge of EPU; is that correct?

11 A No.

12 Q What role did he have at EPU?

13 A When I first met Marc Wiley, he was a Sergeant in the  
14 Executive Protection Unit. I met him when I went to the  
15 Mansion to review and make copies of the closed circuit TV  
16 in regards to the chef embezzlement investigation.

17 Q But he is a part of EPU?

18 A Yes, he is.

19 Q EPU, we have had a couple of the officers here, but  
20 EPU was the Executive Protective Unit and they protect the  
21 Governor and his family; is that correct?

22 A Yes, they do.

23 Q Okay. Did there come a time in April of 2012 when  
24 Mr. Wiley on your behalf began to communicate back to you  
25 what was going on with the Governor?

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1 A It wasn't -- well, my recollection when we first  
2 started talking to Sergeant or First Sergeant Wiley, I was  
3 asking at the time, I was looking for additional gifts  
4 that Jonnie Williams may have provided to the Governor  
5 that were not reported on his Statement of Economic  
6 Interests. And yes, I did reach out to him and ask for  
7 some assistance.

8 Q Okay. And so for the next 19 to 20 months, he on  
9 behalf of you essentially was eavesdropping on  
10 conversations of the Governor and reporting them back to  
11 you; is that correct?

12 A No, I've never instructed him to do that. I don't  
13 know why you say -- well, no, I never instructed him to  
14 eavesdrop.

15 Q Okay.

16 MR. BROWNLEE: Court's indulgence, Your Honor.  
17 Let me grab one thing, Your Honor.

18 (Counsel retrieving document.)

19 BY MR. BROWNLEE:

20 Q Agent Hagan, did you not write in a State Police  
21 document in April of 2012 that Mr. Wiley reported back to  
22 you that he advised Trooper John Dudley, who was assigned  
23 to the Governor on a trip, the flight manifest indicated  
24 Jonnie Williams was supposed to be on the plane but he  
25 wasn't, one of Williams' co-workers was on the flight and

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1 sat next to the Governor for most of the flight, but  
2 Trooper Dudley could not hear their entire conversation  
3 because of the jet engine noise, but he was able to hear  
4 them talking about Anatabloc?

5 MS. ABER: Objection.

6 MR. BROWNLEE: I'm just asking if he recalls  
7 that, Your Honor.

8 THE COURT: I'll let you answer that.

9 THE WITNESS: Okay. I recall First Sergeant,  
10 may have been Sergeant then, Wiley telling me that, but I  
11 never instructed him to tell me that.

12 BY MR. BROWNLEE:

13 Q Did you have Officer Wiley get a new cell phone when  
14 he started this process back in 2012?

15 A I have no knowledge of that, no.

16 MR. BROWNLEE: May I approach to refresh his  
17 recollection?

18 THE COURT: Go ahead.

19 (Document proffered to witness.)

20 BY MR. BROWNLEE:

21 Q Just take a look at the first page.

22 (Witness perusing document.)

23 A Okay.

24 Q Does this refresh your recollection that Mr. Wiley  
25 got a new cell phone in April of 2012 right after he



**CHARLES HAGAN - REDIRECT**

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1 started reporting back to you?

2 A He advised me that he had a new cell phone and he  
3 gave me his number, yes.

4 Q All right.

5 MR. BROWNLEE: That's all, Your Honor. Thank  
6 you.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 BY MS. ABER:

10 Q Special Agent Hagan, let start where Mr. Brownlee  
11 left off. About Officer -- what's Mr. Wiley's title?

12 A He is a First Sergeant right now.

13 Q First Sergeant Wiley. Is the EPU at all affiliated  
14 with the Virginia State Police?

15 A Yes, they are.

16 Q And were they at all aware, had you informed  
17 Mr. Wiley in some terms about what you were investigating?

18 A Yes, I did.

19 Q Okay. And tell the jury, when Mr. Brownlee uses  
20 words like "on your behalf," what was your affiliation  
21 with Mr. Wiley, First Sergeant Wiley? Was he acting on  
22 your behalf?

23 A No, he never acted on my behalf, except if I asked  
24 for specific information, such as, "Can you give me a list  
25 of what flights the Governor has been on in the last year

**CHARLES HAGAN - REDIRECT**

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1 or so?" The reason we did that is because we were still  
2 in the covert stage, we didn't go overt yet, and I didn't  
3 want to go to the travel office in the Mansion to let them  
4 know we were looking into that area.

5 Q Did you ever ask First Sergeant Wiley to listen in on  
6 Mr. McDonnell's phone calls?

7 A No, never.

8 Q Did you ever ask him to look at e-mails that  
9 Mr. McDonnell may have been writing?

10 A No, never.

11 Q How would you characterize, in sum, the information  
12 that First Sergeant Wiley was providing to you?

13 A He would provide information that I had asked him  
14 specifically for. And then he knew the areas that we were  
15 looking into, the investigation was centered on, based on  
16 what I was asking about. And he would voluntarily call me  
17 many times and say, "Hey, this might help your  
18 investigation."

19 Q And were you using Special Agent Wiley as some sort  
20 of deliberate secret spy on the Governor?

21 A No.

22 Q Changing topics. At the very beginning, I believe,  
23 of Mr. Burck's cross-examination, I believe there was a  
24 lot about investigations and who had what open when. At  
25 the time you went to interview Ms. McDonnell in February

**CHARLES HAGAN - REDIRECT**

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1 of 2013, was there a federal grand jury investigation open  
2 into the McDonnells for public corruption?

3 A No, there was not.

4 Q Was there a state grand jury investigation into the  
5 McDonnells for public corruption?

6 A Yes, there was.

7 Q Now, I believe you mentioned something about a  
8 custodial interview. Could you describe to the jury what  
9 that is?

10 A Normally --

11 MR. BURCK: Objection, Your Honor, relevance.

12 THE COURT: Overruled.

13 BY MS. ABER:

14 Q What's a custodial interview?

15 A A custodial interview is when I conduct an interview,  
16 usually of a suspect, and my intention, either the person  
17 has been placed under arrest or my intention is to place  
18 the person under arrest after I interview the person.

19 Underneath those circumstances, my understanding is I'm  
20 supposed to let the suspect know the Miranda warnings;  
21 that the person is allowed to get an attorney and whatever  
22 they say can be used against them. In a non-custodial  
23 interview, it is just a normal interview that I would  
24 normally do. I have no intention of detaining the person.  
25 I take their information and leave.

**CHARLES HAGAN - REDIRECT**

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1 Q Which one occurred here with Ms. McDonnell?

2 A Non-custodial.

3 MR. BURCK: Objection, asked and answered.

4 THE COURT: Overruled.

5 THE WITNESS: Non-custodial.

6 BY MS. ABER:

7 Q Let's talk a little more about those notes. I'm  
8 going to show you so you have it in front of you RM-2079,  
9 the set of notes of your interview with Ms. McDonnell.  
10 Now, I think we have established, sir, is it fair to say  
11 that your notes are not a verbatim transcript of this  
12 interview?

13 A Oh, yes, definitely.

14 Q Did you ask Ms. McDonnell at certain points for  
15 clarification on issues that interested you?

16 A Yes.

17 Q What would something like that have been in this  
18 interview?

19 A Well, while I was interviewing Ms. McDonnell, I was  
20 interested in the \$50,000. She told me it was a loan.  
21 She indicated that there was a written agreement that she  
22 had signed, a written contract. And that contradicted  
23 what I had been told three weeks earlier, so there was a  
24 conflict, contradictory information, from what I had heard  
25 from Jonnie Williams. Secondly, she indicated that she

**CHARLES HAGAN - REDIRECT**

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1 was making payments for the loan. Again, that was  
2 contradictory from the knowledge I had at the time,  
3 because I had pulled her bank records and I analyzed her  
4 Wachovia and her Beach bank accounts, and I think they  
5 were from March of 2010 to March of 2012, and I did not  
6 see any payments going back to Jonnie Williams.

7 Q Now, Special Agent, did those notes say that Special  
8 Agent Lyons was present at that interview? Do you see his  
9 name anywhere?

10 A I don't believe it does.

11 Q So how do you know he was there?

12 A I was there.

13 Q Okay. Do those notes say the word "Jonnie Williams"  
14 or do you just use the shorthand "JW"?

15 A "JW."

16 Q How do you know that that's a reference to Jonnie  
17 Williams?

18 A Because it is his initials that I, I guess, created  
19 so I would know that's who they were talking about.

20 Q Why did you testify before this jury that Maureen  
21 McDonnell said there was a written contract?

22 A Because that's what she said.

23 MS. ABER: One moment, please, Your Honor. I  
24 have no further questions, Your Honor. Thank you.

25 MR. BURCK: Your Honor, I just want you to know,

**JAMES LYONS - DIRECT**

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1 this document is okay with us. It doesn't need redaction.

2 THE COURT: So you are ready to move that in?

3 MR. BURCK: Yes, just those two pages, unless  
4 the government wants to put in the entire document. For  
5 us, all we need is RM-2079-0003 through RM-2079-0005. We  
6 have no objection if the government wants to put in the  
7 entire document.

8 THE COURT: They will be admitted.

9 MR. BURCK: Thank you.

10 (Witness stood aside.)

11 Call your next witness, please.

12 MS. ABER: James Lyons.

13 JAMES LYONS,  
14 called as a witness by and on behalf of the government,  
15 having been first duly sworn by the Clerk, was examined  
16 and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ABER:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q Please state your name and spell your last for the  
22 record.

23 A James R. Lyons. L-Y-O-N-S.

24 Q Do they also call you Doc?

25 A Yes, ma'am.

**JAMES LYONS - DIRECT**

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1 Q You are not a doctor, though, right?

2 A No, ma'am.

3 Q Where are you presently employed?

4 A I am presently employed with the Northumberland  
5 County Sheriff's Office as their Undersheriff.

6 Q Were you previously employed with the Virginia State  
7 Police?

8 A I was.

9 Q For how long did you work there?

10 A 25 years.

11 Q Okay. I'm going to turn your attention back to  
12 February 15th of 2013, please. Were you working for the  
13 Virginia State Police on that date?

14 A Yes, ma'am.

15 Q On that day, did Special Agent Charlie Hagan ask you  
16 to join him for an interview?

17 A Yes, ma'am, he did.

18 Q Who was that interview of?

19 A Ms. McDonnell.

20 Q Until that day, did you have anything to do with the  
21 State Police investigation of food thefts at the Mansion?

22 A No, I did not.

23 Q Until that day, did you have anything to do with any  
24 investigations of Jonnie Williams?

25 A No, I did not.

**JAMES LYONS - DIRECT**

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1 Q Until that day, had you had anything to do with any  
2 investigations of Mr. and Ms. McDonnell?

3 A No, I did not.

4 Q Did you attend any briefings or witness interviews  
5 related to those investigations?

6 A No, I did not.

7 Q After that date, did you assist in any way with those  
8 investigations?

9 A No, ma'am.

10 Q Okay. Thank you. Now, did you help schedule that  
11 interview of Ms. McDonnell?

12 A No, ma'am.

13 Q All right. Let's talk about the interview itself.  
14 Walk us through what happens when you got to the Mansion.

15 A We went to the Mansion, myself and Special Agent  
16 Hagan. We were met at the entrance to Ms. McDonnell's  
17 office by, I don't remember the young lady's name, but we  
18 were told that she was expecting us. And we went in,  
19 introduced ourselves, and the interview began.

20 Q Okay. In what room were you conducting the  
21 interview?

22 A I believe it was her office.

23 Q And who was present for the interview?

24 A Myself, Special Agent Hagan, and Ms. McDonnell.

25 Q Did either you or Special Agent Hagan take notes



**JAMES LYONS - DIRECT**

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1 during the interview?

2 A Special Agent Hagan did.

3 Q Is it fair to say he did most of the questioning of  
4 Ms. McDonnell?

5 A Yes, ma'am.

6 Q Now, I'd like to ask you first if Special Agent Hagan  
7 said anything at the beginning of the interview.

8 A Just an introduction, and then just we introduced  
9 ourselves and then it was just general conversation for a  
10 few minutes.

11 Q All right. And in sum, what was that general  
12 conversation about?

13 A Growing up in -- apparently, Special Agent Hagan and  
14 Ms. McDonnell had grown up in the same neighborhood in New  
15 York. Just general chit-chat. I think Ms. McDonnell  
16 asked me if I was from New York, and I told her I was from  
17 the other side of the state in Southwest Virginia. It was  
18 just general conversation.

19 Q Do you recall whether Special Agent Hagan said  
20 anything about previously working for the FBI?

21 A Yes, he did.

22 Q Now, what was the first topic addressed at the  
23 interview?

24 A The first topic addressed was the food from the  
25 Mansion, as I recall.

**JAMES LYONS - DIRECT**

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1 Q Did the conversation then turn to Cailin McDonnell's  
2 wedding?

3 A Yes, ma'am, it did.

4 Q And did you or Special Agent Hagan ask about the  
5 contract for the wedding catering?

6 A There was discussion about the contract for the  
7 reception. Ms. McDonnell had said --

8 Q Hang on there. Let me stop you. Did you explain or  
9 did Special Agent Hagan explain to Ms. McDonnell that a  
10 search warrant had been conducted at the catering company?

11 A Yes, ma'am.

12 Q And did one of you tell Ms. McDonnell that  
13 investigators had found a \$15,000 check from the Starwood  
14 Trust to the catering company for Cailin McDonnell's  
15 wedding?

16 A Yes, ma'am.

17 Q Did you both talk to Ms. McDonnell about a gentleman  
18 named Jonnie Williams?

19 A Yes, ma'am.

20 Q Okay. Now, tell the jury, please, what Ms. McDonnell  
21 said about the origin of her relationship with  
22 Mr. Williams.

23 A May I refer to my notes?

24 Q Yes, sir, but you need to tell -- just for the  
25 record, what is it that you are looking at?

**JAMES LYONS - DIRECT**

3001

1 A I have a copy of the interview, the VSP-102 that was  
2 done by Special Agent Hagan after the --

3 Q They are signed by Special Agent Hagan. Did you  
4 review them at the time they were made?

5 A Yes, ma'am, I reviewed them as soon as he made them.

6 Q Before they were finalized and processed through the  
7 State Police?

8 A Yes, ma'am.

9 Q At the time, did you agree with everything that  
10 Special Agent Hagan had written?

11 A Yes, ma'am, I did.

12 MR. BURCK: Objection. If the witness doesn't  
13 remember and has to refer to notes, then the testimony  
14 is -- there is no point in testifying.

15 THE COURT: Let's determine whether or not the  
16 witness has any independent recollection before we start  
17 dealing with the notes.

18 BY MS. ABER:

19 Q Let me ask you to put them away for a second. If I  
20 were to ask you if you could tell this jury about what  
21 Ms. McDonnell said about the origin of her relationship  
22 with Mr. Williams, how long they had known each other, do  
23 you know that off the top of your head?

24 A I can tell you that, yes, ma'am. She stated that  
25 they had, she and the Governor had first met Mr. Williams

**JAMES LYONS - CROSS - BURCK**

3002

1 a long time ago, after Governor McDonnell had left the  
2 Army. That Mr. Williams was a sales rep for American  
3 Hospital Supply, and that Governor McDonnell had gone to  
4 work with American Hospital Supply. And that is where  
5 they met.

6 Q Now, did you talk to Ms. McDonnell about her May,  
7 2011 trip to the Roskamp Institute?

8 A She discussed that in my presence, yes, ma'am.

9 Q Okay. Did the subject of the August 30th, 2011 lunch  
10 at the Mansion come up?

11 A Yes, ma'am, it did.

12 Q And did the topic of a Star Scientific event in  
13 California come up?

14 A Yes, ma'am, it did.

15 Q Did you all tell Ms. McDonnell that you had uncovered  
16 a check from the Starwood Trust to her?

17 A Yes, ma'am.

18 Q Okay. And from your recollection, what did  
19 Ms. McDonnell say about the existence of a loan agreement  
20 for that \$50,000 check?

21 A She said that there was a loan agreement that she had  
22 signed, and that she was making payments on that loan.

23 Q Now, did Ms. McDonnell ask you any questions, ask any  
24 questions of both of you?

25 A Yes, she did. At one time she asked if we had

**JAMES LYONS - CROSS - BURCK**

3003

1 interviewed the children, and then she also asked was it  
2 necessary that the children be interviewed.

3 Q When the interview concluded, how did you all exit?

4 A We went out the front door of her office, she  
5 escorted us around the Mansion, and we left at the gate.

6 MS. ABER: One moment, please, Your Honor. No  
7 further questions. Thank you.

8 THE COURT: Mr. Burck?

9 MR. BURCK: Very briefly.

10 CROSS-EXAMINATION

11 BY MR. BURCK:

12 Q Special Agent Lyons, my name is Bill Burck. I  
13 represent Maureen McDonnell. I just have a few questions  
14 for you.

15 A Yes, sir.

16 Q You testified that you didn't have anything to do  
17 with this investigation before the interview of Maureen  
18 McDonnell or after the interview of Maureen McDonnell,  
19 right?

20 A That's correct, sir.

21 Q So the words Starwood Trust and all this that you  
22 heard from Ms. Aber, did that mean anything to you at the  
23 time?

24 A Well, the only thing I knew about the investigation  
25 at the time when I went over to the Mansion was what I had

**JAMES LYONS - CROSS - BURCK**

3004

1 read in the paper.

2 Q What you had read in the paper.

3 A Yes, sir.

4 Q Fair to say the information you were hearing from  
5 Special Agent Hagan that was being asked of Maureen  
6 McDonnell at the time didn't mean much to you?

7 A It didn't mean a lot to me. No, sir.

8 Q Jonnie Williams didn't mean a lot to you, other than  
9 what you read in the paper?

10 A I had heard of him, but again, other than what I read  
11 in the paper or heard on the news.

12 Q You were asked by Ms. Aber whether or not you have  
13 prepared for your testimony here today.

14 A Yes, I have prepared for my testimony.

15 Q I think you said that you reviewed a VSP report,  
16 Virginia State Police report, right?

17 A That's correct, sir.

18 Q Is it a typewritten version?

19 A Yes, sir, it is.

20 MR. BURCK: May I approach the witness?

21 THE COURT: Go ahead.

22 (Document proffered to witness.)

23 BY MR. BURCK:

24 Q Sir, is that a copy of the same thing you reviewed?

25 A No, sir, it is not. This is more -- the information

**JAMES LYONS - CROSS - BURCK**

3005

1 that I reviewed is different from what I am seeing here.

2 Q Okay. So there is a -- so you have something else  
3 that you reviewed? That's not that document?

4 A Yes, sir. This document is dated January 26th, 2013.  
5 And the information that I referred to was dated February  
6 15th, 2013.

7 Q Okay.

8 A I have not seen this document.

9 Q Okay. I'm going to show you another document.  
10 Actually, bring up RM-2079.

11 MR. BURCK: Your Honor, I'm sorry, I gave him  
12 the wrong document. My apologies.

13 (Document proffered to witness.)

14 BY MR. BURCK:

15 Q That one, sir. I'm sorry, I gave you the wrong  
16 report. Is that the same document?

17 A Yes, sir, this is the same report.

18 Q That's a typewritten document that was created by  
19 Special Agent Hagan?

20 A That's correct, sir.

21 Q And if you could just publish for the jury as well,  
22 RM-2079-0003. Can you just flip through, sir, would you  
23 just look, you don't have to read it, but do you recognize  
24 that document?

25 A On the screen?

**JAMES LYONS - CROSS - ASBILL**

3006

1 Q Yes.

2 A No, sir.

3 Q These are handwritten notes of Mr. Hagan's. You have  
4 never seen those before?

5 A No, sir, I have not.

6 Q You didn't review them prior to testifying today?

7 A No, sir. This is the first time I've seen them.

8 MR. BURCK: Thank you. That's it, Your Honor,  
9 for us.

10 THE COURT: Mr. McDonnell?

11 CROSS-EXAMINATION

12 BY MR. ASBILL:

13 Q Good afternoon, sir. My name is Henry Asbill. I  
14 represent Governor McDonnell.

15 A Yes, sir.

16 Q I just want to make sure I understand your testimony  
17 clearly. At the time you went to this interview you were  
18 not involved in the planning of it or anything of that  
19 nature.

20 A No, sir, I was not.

21 Q You say what you knew is just what you read in the  
22 paper?

23 A Basically, that's correct.

24 Q Did that relate only to the Chef Todd issue or was it  
25 broader than that?



**JAMES LYONS - CROSS - ASBILL**

3007

1 A Sir, I don't recall. It was whatever was popular in  
2 the paper in February.

3 Q Did it involve the McDonnells in any way, do you  
4 recall?

5 A Yes, sir, it did.

6 Q It did.

7 A Uh-huh.

8 Q So you knew that that was at least a subject matter  
9 of the interview.

10 A That's correct. Yes, sir.

11 Q As you got into the interview, Agent Hagan was doing  
12 the questioning and it became very clear to you what the  
13 various subjects were in the interview, correct?

14 A Well, it became clearer to me what the subjects were,  
15 yes.

16 Q So whatever you knew beforehand, it became more clear  
17 once the interview commenced; is that right?

18 A That's correct, yes, sir.

19 Q During the interview, Agent Hagan was the one who was  
20 doing the questioning, and simultaneously taking notes.  
21 Correct?

22 A That's correct. Yes, sir.

23 Q And you were not doing the questioning, but you also  
24 were not taking notes.

25 A I think I asked two questions the entire time.

**JAMES LYONS - CROSS - ASBILL**

3008

1 Q But you didn't have to worry about trying to talk and  
2 write at the same time.

3 A No, sir, I did not.

4 Q So would you have been or would somebody have been  
5 recording this interview in any way?

6 A I don't recall, sir, whether it was recorded. I know  
7 that I did not record it. And whether Charlie Hagan  
8 recorded it or not, I don't know.

9 Q Was there any discussion between the two of you about  
10 whether or not you should record it?

11 A Not with me, no, sir.

12 Q Is there any reason to think of why it wouldn't be  
13 appropriate to record it?

14 A No, I can't answer that. I have done interviews that  
15 I have recorded and I've done interviews that I have not  
16 recorded. So I can't speak for him. I don't know why he  
17 chose not to record it.

18 MR. ASBILL: Thank you, sir. No further  
19 questions.

20 THE COURT: Anything else?

21 MS. ABER: No, Your Honor.

22 THE COURT: Thank you, sir. You may stand down.

23 (Witness stood aside.)

24 Call your next witness.

25 MR. HARBACH: Thank you, Your Honor. The

**DONNIE WILLIAMS - DIRECT**

3009

1 government calls Donnie Williams.

2 DONNIE WILLIAMS,

3 called as a witness by and on behalf of the government,

4 having been first duly sworn by the Clerk, was examined

5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HARBACH:

8 Q Good afternoon, Mr. Williams.

9 A Good afternoon.

10 Q Could you please state your full name for the record?

11 A It is Donnie O. Williams.

12 Q What do you do for a living, sir?

13 A I'm a retired Deputy Sheriff.

14 Q Are you working right now?

15 A I have a lot of rental property that I work on.

16 Q What sorts of work do you do?

17 A A little bit of everything: painting, carpentry work,  
18 roof work.

19 Q When did you retire from law enforcement?

20 A Four or five years ago.

21 Q Are you related to Mr. Jonnie Williams?

22 A Yes, he is my brother.

23 Q Do you recall, turning your attention to the fall of  
24 2012 now, okay, do you recall around that time making the  
25 acquaintance of Ms. McDonnell?

**DONNIE WILLIAMS - DIRECT**

3010

1 A Yes, I do.

2 Q What were the circumstances?

3 A My brother asked me to go by there and see if I could  
4 help them out, and I didn't have the time. I said, "As a  
5 favor to you, I'll run by there and see what they have,  
6 see what the problems are."

7 Q Where was it that you were going to run by and check  
8 out?

9 A It was over in Glen Allen. I forgot the street name.

10 Q And what was the location? Was it their home?

11 A Yes, it was their home.

12 Q We are not talking about the Governor's Mansion here,  
13 right?

14 A No, we are not. Their personal home.

15 Q Did you in fact provide some assistance in terms of  
16 repairs and what not at the McDonnells' home in Glen  
17 Allen?

18 A Yes.

19 Q What sorts of stuff did you do for them?

20 A We replaced some hardwood floors that got damaged  
21 from a water leak in a bathroom. We had to pull them up.  
22 I bought some hardwood flooring and matched the stain and  
23 we put them back down.

24 Q How did you learn about the stuff that needed to be  
25 done at the house?

**DONNIE WILLIAMS - DIRECT**

3011

1 A She told me.

2 Q Who is "she"?

3 A Ms. McDonnell.

4 Q Did you meet with her in person?

5 A Yes.

6 Q Did you also communicate with her via text message?

7 A Yes.

8 Q Have you had a chance to review some text messages  
9 between yourself and Ms. McDonnell before you came into  
10 Court today?

11 A No.

12 Q Have you reviewed them at any time in the past with  
13 the government?

14 A Yes.

15 MR. HARBACH: Your Honor, can I tender hard  
16 copies to the witness? It might make this easier.

17 THE COURT: Sure.

18 MR. HARBACH: For the record, I'm sending up  
19 paper copies to the witness of Government 424 through 427,  
20 437 through 441, 463, 473, and 491.

21 BY MR. HARBACH:

22 Q My question for you, Mr. Williams, is that stack of  
23 paper that the Court Security Officer just handed you, do  
24 you recognize those to be paper copies of text messages  
25 between you and Ms. McDonnell?

**DONNIE WILLIAMS - DIRECT**

3012

1 A Yes.

2 MR. HARBACH: The government offers that same  
3 list, I'll repeat for the record, Government's 424 through  
4 427, 437 through 441, 463, 473, and 491.

5 THE COURT: They will be admitted.

6 BY MR. HARBACH:

7 Q Now, before we get to the texts, Mr. Williams, do you  
8 recall having any conversations with your brother about  
9 the list of repairs that Ms. McDonnell had requested that  
10 you do?

11 A He didn't know what it was, he just said, "Go by  
12 there and see if you can help them out."

13 Q After you did that, did you talk to him again about  
14 it, to your recollection?

15 A To Jonnie?

16 Q Yes, sir.

17 A Yes. I called him because they had a hot tub and  
18 they couldn't find or they didn't know anybody, it needed  
19 a new top on it. She asked me could I find one. I found  
20 it. They would need a new hot tub cover, and I deal with  
21 a pool company in Fredericksburg, and I talked to the guy  
22 there and he was going to order it.

23 Q Did you relate that to your brother?

24 A Yes. And I asked him did he want, "What's going on,  
25 are you going to pay for it or do you want me to bill

**DONNIE WILLIAMS - DIRECT**

3013

1       them?"

2       Q       What did he say?

3       A       He said he would go ahead and pay for that.

4       Q       Let's take a look at some of those text messages. We  
5       can roll through them quickly. I'd like to start with  
6       Government's 424 in evidence, please. We can blow this  
7       one up for the witness and the jury. This one is from  
8       Ms. McDonnell. And you mentioned a moment ago not  
9       remembering the exact location of their home. Seeing on  
10      the screen now there is a reference she makes to Wyndham.  
11      Is that where their private home was located, their  
12      personal home?

13      A       Yes.

14      Q       Let's take a look at 425, please. Noting the date on  
15      this one is November 12th of 2012, is this your response  
16      to her? It says, "No, everything's fine"?

17      A       Yes.

18      Q       Okay. Let's keep going and look at 426, please.  
19      Before we blow up the text, let's let the jury see the  
20      date, please. Thank you. We are still on November 12th  
21      of 2012. Ms. McDonnell is asking you: "Do you need me to  
22      get a key out to you? To get into the garage." And she  
23      gives you other instructions. Do you recall whether in  
24      fact you were provided a key to their residence?

25      A       Yes, they left a key for me.

**DONNIE WILLIAMS - DIRECT**

3014

1 Q They did. Can we take a look at the next one,  
2 please, which I believe is 427. Blow up the date and the  
3 content for the witness. We are still on November 12th;  
4 is that right, sir?

5 A Yes.

6 Q And Ms. McDonnell, she is making reference here to a  
7 hot tub cover which you testified about a moment ago. Is  
8 this what got that started?

9 A Yes.

10 Q Okay. Let's look at the next text message, please,  
11 which is Government's 437. Now, this is about a month  
12 later. This is December the 12th of 2012. Do you see  
13 that there, sir?

14 A Yes.

15 Q And Ms. McDonnell is asking you, "Forgot to ask you,  
16 were you able to get the model number of the Jacuzzi?"

17 Were you able in fact to get hold of a new Jacuzzi  
18 top from your contact?

19 A I did. I never found the model number on it, and I  
20 had to go drive from Fredericksburg and pick it up and  
21 take it to the pool company in Fredericksburg so they can  
22 get the measurements and get the accurate ones.

23 Q Did a replacement cover end up coming?

24 A Yes.

25 Q Let's take a look at 438, please. This is your



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3015

1 response to Ms. McDonnell a couple of days later on the  
2 14th. And you say, "Spa cover will be here in three  
3 weeks." Is that consistent with your memory?

4 A Yes.

5 Q Can we take a look at 439, please. This is  
6 Ms. McDonnell's response to you. Now, you told us a  
7 moment ago that you had a conversation with your brother  
8 about him paying for it; is that right?

9 A Yes.

10 Q Let's take a look at Government's 441. That's what  
11 you tell her.

12 A Yes.

13 Q Now, you mentioned some other odd jobs that you did  
14 for the McDonnells around their home. I think you said  
15 you replaced some flooring; is that right?

16 A Some hardwood flooring.

17 Q Okay. Any other jobs of significance that you  
18 remember besides that?

19 A Well, we ended up staining the deck and fixing some  
20 lattice on it, and ended up replacing some bushes on the  
21 side of the house and putting new rows of bushes in the  
22 back, trimming bushes. I told her, at the time I told her  
23 we were really busy, Jonnie was aerating and seeding his  
24 lawn, you know, it is a large lawn, and she asked could we  
25 do theirs. And I said, "Okay." So we ended up getting

**DONNIE WILLIAMS - DIRECT**

3016

1 all the leaves up, aerating it, bringing the machine over,  
2 aerating it, seeding it. We fixed a couple of the  
3 sprinkler heads, let's see, stained the deck.

4 Q You are saying "we" when you describe this. How big  
5 of a team of workers do you have out there?

6 A Well, when we done aerating and seed, there was four  
7 people. It took us a good part of the day.

8 Q Are you yourself actually out there working, too?

9 A Yes.

10 Q And what about the staining the deck and replacing  
11 the hardwood floors, ballpark, how many people are we  
12 talking about?

13 A Well, there was two people the first day and three  
14 people the second day and we were there all day because it  
15 was getting cold and we wanted to finish it up.

16 Q Over the course of time that you are doing these  
17 things for the McDonnells, did Ms. McDonnell ever say  
18 anything to you about offering to pay for any of it?

19 A She offered to pay several times.

20 Q She did?

21 A She did.

22 Q Before the investigation in this case became public,  
23 did she ever ask for an invoice?

24 A Before that, no.

25 Q Before the investigation ever became public, did

**DONNIE WILLIAMS - DIRECT**

3017

1 Ms. McDonnell ever ask you how much anything cost?

2 A No.

3 Q Before the investigation became public, did

4 Ms. McDonnell ever actually pay for anything?

5 A No.

6 Q Approximately how many times -- withdrawn. On  
7 approximately how many different occasions would you say  
8 you went over to the McDonnells' home in Wyndham to make  
9 repairs? How many times did you all go over there?

10 A Ten to twelve times.

11 Q Let's take a look now at what's in evidence as  
12 Government's 463. The date on this one is January 19th of  
13 2013. And if you see there, about three lines in, she is  
14 inquiring whether any of your days next week might work  
15 for meeting out at Wyndham. Was this an example of  
16 another occasion when you went out there to do some work?

17 A Yes.

18 Q I'm sorry?

19 A Yes.

20 Q Okay. Let's take a look at Government's 473 in  
21 evidence, please. This is five days later on January 24th  
22 of 2013, and she is asking about if you can help out with  
23 the heat and furnace unit in the garage. The e-mail goes  
24 on. Do you recall if you in fact do some work on their  
25 HVAC?

**DONNIE WILLIAMS - DIRECT**

3018

1 A Yes, replaced all the filters in the house, but they  
2 didn't know anything around the Richmond area, they said,  
3 that worked on it, so I called the company I use, and they  
4 came down and it ended up being the internal filter in  
5 there. He ordered a new one, I picked it up from him in  
6 Fredericksburg, and my little brother and I put it in.

7 Q What's your little brother's name?

8 A Deanie.

9 Q Dean?

10 A Dean. Excuse me, I call him Deanie.

11 Q Can we take a look at the last text message, which is  
12 Government's 491, please. Now we are into February of  
13 2013. This is February 19th. And in this one,  
14 Ms. McDonnell references a granite guy. Do you recall  
15 what that was about?

16 A Yes. She had a crack in some granite, and she asked  
17 me, you know, did we know anybody. And I have a guy I use  
18 for granite in the Richmond area, and he came over.

19 Q To do some repairs?

20 A Yes, to get an estimate on if he can fix it, and I  
21 think he was looking in the kitchen at the granite.

22 Q We are still at their personal residence in Wyndham;  
23 is that right?

24 A Yes.

25 Q You can take the exhibit down. Mr. Williams, did you

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3019

1 ever have any conversations with Mr. McDonnell about any  
2 of these repairs?

3 A Yes, one day they came together.

4 Q And where were you when you had this conversation  
5 with Mr. McDonnell?

6 A We were in the garage. He was talking about the  
7 air-conditioning. It wasn't working properly on -- I  
8 forgot what floor it was. But it was the air-conditioner  
9 located in the garage.

10 Q Did you all end up fixing that? Was this the same  
11 filter problem you described a few minutes ago?

12 A Yes. That's what was the problem.

13 Q During that conversation with Mr. McDonnell, did he  
14 offer to pay for the work?

15 A No.

16 Q During your conversation with Mr. McDonnell, did he  
17 ask you how much it cost?

18 A No.

19 Q Now, after the investigation became public in early  
20 spring of 2013, after that point, did you get a request  
21 from Ms. McDonnell for an invoice?

22 A Yes.

23 Q What do you recall about that?

24 A She wanted it on a paper with all the work on it from  
25 my company. And I said, "Look --" I felt uncomfortable

**DONNIE WILLIAMS - DIRECT**

3020

1 then because I'm not a contractor. I work on my own  
2 stuff. I've built houses and stuff, but it is my personal  
3 stuff. And I didn't want to get involved with taxes or if  
4 you needed any kind of permits for any of the stuff.

5 Q Was there conversation with Ms. McDonnell in person  
6 or over the phone or do you remember?

7 A It was in person.

8 Q Did Ms. McDonnell say why she wanted a receipt or an  
9 invoice?

10 A She said she wanted -- she needed a record of it.

11 Q Did you in fact provide her with one?

12 A I did.

13 Q Let's take a look at Government's 496, please.  
14 Mr. Williams, can you see that okay?

15 A Yes.

16 Q Is this an e-mail exchange that at least is in part  
17 between you and Ms. McDonnell with the list of  
18 expenditures?

19 A Yes.

20 Q That you have been discussing?

21 A Yes.

22 MR. HARBACH: The government offers Government's  
23 496.

24 THE COURT: It will be admitted.

25 BY MR. HARBACH:

**DONNIE WILLIAMS - DIRECT**

3021

1 Q Publishing to the jury, what's the date, looking at  
2 the bottom e-mail there, Mr. Williams? Is the date that  
3 you sent this list of expenditures, is that March 4th of  
4 2013?

5 A Yes.

6 Q And was this what you sent that was in response to  
7 Ms. McDonnell's prior request?

8 A Yes.

9 Q Let's take a look at the next page of Government's  
10 496, please. Let's blow up the top part for the witness.  
11 Did you prepare this document, sir?

12 A Yes.

13 Q Now, looking at the figures that are on here, for  
14 example, staining the deck, you charged \$150 of labor and  
15 apparently no materials costs. Was that the actual cost  
16 of the labor that was involved here?

17 A No.

18 Q How did it compare to what the actual cost of the  
19 labor was?

20 A A third. A third of that.

21 Q Okay. And similarly, look at the next-to-the-bottom  
22 line, "Repair and replace hardwood flooring." You charged  
23 only \$50 in labor. Was that similarly a fraction of what  
24 the actual labor cost was?

25 A Yes.

**DONNIE WILLIAMS - DIRECT**

3022

1 Q Why did you make the prices so low on this invoice,  
2 sir?

3 A I just made it up in a couple minutes. I wanted to  
4 get it and get it to her, get it over with.

5 Q Let's scroll down to the bottom so we can see the  
6 total, please. \$1,685.50; is that right?

7 A Yes.

8 Q Did Ms. McDonnell, after you sent her this invoice,  
9 did she send you a check?

10 A Yes, she did.

11 Q Did you either cash or deposit it right away?

12 A No.

13 Q Why not?

14 A I wasn't going to -- I wasn't even going to cash it.  
15 I didn't want anything to do with any of this mess. So I  
16 just left the check in my vehicle.

17 Q Did you eventually either cash or deposit the check?

18 A Yes.

19 Q Why did you eventually do it?

20 A I talked to my brother. He said, "You might as well  
21 go on and cash it. You can get some money."

22 Q Did you have any conversations with Ms. McDonnell  
23 about whether you should cash or deposit the check?

24 A I believe she sent me text messages.

25 Q What do you recall the substance of the text message



**DONNIE WILLIAMS - DIRECT**

3023

1 as being?

2 A Questioning "When are you going to cash the check?"

3 Q Did you eventually do that?

4 A I did.

5 Q Do you recall at some point having an encounter with  
6 Ms. McDonnell in the garage of their home where she gave  
7 you something?

8 A Yes.

9 Q Tell us what you remember about that.

10 A She had, she said it was a couple of dresses in there  
11 that she had worn, I believe it was in a box, and she had  
12 written a note. I believe it was for Jonnie. I didn't  
13 look at the note, but she said to give them, you know, get  
14 them to Rachel so she can maybe auction them off for  
15 charity, and say the First Lady wore the dresses.

16 Q Who is Rachel?

17 A Rachel is my niece.

18 Q Whose daughter?

19 A Jonnie's daughter.

20 Q Prior to this conversation with Ms. McDonnell where  
21 she gave you the box, had you heard anything about any of  
22 this clothing from anybody?

23 A No.

24 ///

25 ///

1 Q You mentioned that there was -- your recollection is  
2 that there was a note or something, some kind of letter  
3 with the box?

4 A Yes.

5 Q And you said you did not look at it?

6 A No, I did not.

7 Q How would you describe Ms. McDonnell's demeanor when  
8 she gave you the box with the note attached?

9 A She was nervous.

10 Q Did she say anything to you that made you think she  
11 was nervous?

12 A The tone of her voice, and she was talking fast.

13 Q Did she say anything about anything that had happened  
14 to her recently?

15 A I don't -- I don't know.

16 Q Do you recall whether she made any reference to  
17 having any contact with law enforcement?

18 MR. HAUSS: Objection.

19 A Oh, yeah.

20 MR. HAUSS: Leading.

21 MR. BURNHAM: Leading.

22 THE COURT: Overruled.

23 BY MR. HARBACH:

24 Q What do you recall about that, sir?

25 A I think we were in the living or the foyer or

1 something, and she was upset. And she said that she was  
2 going to call the FBI agent up and tell him Jonnie is a  
3 generous person and they shouldn't be doing this, you  
4 know, to him.

5 And I told her, I said, "It doesn't make any sense,  
6 you calling up the FBI agent" -- I forgot his name -- "and  
7 tell them Jonnie is a good person. It just doesn't make  
8 any sense. You need to talk your attorney before you talk  
9 to, you know, one of the FBI agents about something. It  
10 just doesn't make any sense."

11 Q Now, were you aware, at the time of this conversation  
12 with Ms. McDonnell, that your brother Jonnie had loaned  
13 the McDonnells, you know, many thousand dollars of  
14 dollars?

15 MR. HAUSS: Objection.

16 THE COURT: Overruled.

17 A Yes.

18 BY MR. HARBACH:

19 Q How did you know about, let's say, the \$50,000 loan?

20 A Jerri Fulkerson called me up on the telephone.

21 Q For what purpose?

22 A To tell me she was giving the \$50,000 loan out to the  
23 Governor and his wife.

24 Q Do you have an understanding of why Ms. Fulkerson  
25 needed to call you about that?

1 A She calls me for everything because I'm the trustee  
2 on Jonnie's trust, on the Starwood Trust for the kids.

3 Q The day that you had this conversation with  
4 Ms. McDonnell when she mentioned the FBI, did she also  
5 mention the \$50,000 loan?

6 A Yes.

7 Q What do you recall her saying about that?

8 A She was worried about it because they didn't have a  
9 contract and stuff. And I -- I said, "Well, you know" --  
10 I told her it was a check, and on the check it was written  
11 "loan" on it. And -- but she was -- you know, because  
12 they didn't have a contract with Jonnie or anything, and  
13 they were upset over that. So -- she was.

14 Q Now, let's go back to the -- the box for a minute.  
15 What did you do with the box with the note that was with  
16 it?

17 A I took the box and put in my little brother's truck  
18 and told him to take it back to Jonnie's and put it on the  
19 kitchen counter, because I was going to Fredericksburg at  
20 the time --

21 Q All right.

22 A -- when I left.

23 MR. HARBACH: Can I have just a moment, Judge,  
24 please.

25 THE COURT: Sure.

1 (Counsel conferring with co-counsel.)

2 MR. HARBACH: Thank you, Your Honor.

3 BY MR. HARBACH:

4 Q Mr. Williams, do you recall the -- when Ms. McDonnell  
5 asked you for the -- the invoice for the stuff -- all the  
6 stuff you had done at the McDonnells' house, was that  
7 after you had had this conversation with her where she  
8 gave you the box?

9 A Yes.

10 Q Okay.

11 MR. HARBACH: No further questions, Your Honor.  
12 Thank you.

13 THE COURT: All right. Cross?

14 MR. HAUSS: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MR. HAUSS:

17 Q Good afternoon.

18 A Good afternoon.

19 Q So you -- my name is Steve Hauss. I'm an attorney  
20 for Maureen McDonnell.

21 You did not meet Ms. McDonnell until October or  
22 November 2012; is that correct?

23 A Somewhere around there.

24 Q And you had testified that your brother Jonnie was  
25 the one who asked you to do some repairs on the

1 McDonnells' home; is that correct?

2 A Yes.

3 Q And you testified that it was around November 11th,  
4 2012, when you first went over there, correct?

5 A Yes.

6 Q And when you went to the home the first time, you met  
7 with my client, Ms. McDonnell?

8 A Yes.

9 Q And she pointed out to you the various things that  
10 needed to be repaired; is that correct?

11 A Yes. There was a lot -- a lot of things.

12 Q Okay. Do you recall at some point after that  
13 Ms. McDonnell calling you and telling you that a list had  
14 been left for you?

15 A I told her to make a list because it was so many  
16 things that needed to be done around there.

17 Q And do you recall that, in fact, she had left a list  
18 for you in a black folder by the door?

19 A It was -- I remember it was in the garage. I never  
20 looked at it.

21 Q Okay.

22 A I never got to that part.

23 Q Do you recall her telling you that the Governor had  
24 written out the items that needed to be worked on for --  
25 on the list that was in the folder?

1 A I don't recall that. But I -- she told me that she  
2 was writing stuff -- I told her to make the list. She was  
3 writing stuff. I don't know who wrote it, whether it was  
4 the Governor or her. So --

5 Q Do you recall her telling you that she had already  
6 marked off the items from the list that had been completed  
7 so that you could send her a bill?

8 A No.

9 Q Okay. And you never looked at the list?

10 A I never -- no.

11 Q So you don't know if things were marked off or not?

12 A No.

13 Q Now, you've testified that you went over to do work  
14 at the McDonnells approximately 10 to 12 times?

15 A Yes.

16 Q Okay. And every time you met with Maureen McDonnell,  
17 she offered to pay; is that correct?

18 A No.

19 Q Okay.

20 A She offered several times during the time I was there  
21 to pay. It wasn't every time.

22 Q Do you recall meeting with the prosecutors and the  
23 agents in this case in about October of last year?

24 A Yes.

25 Q Okay. Do you recall telling the prosecutors and the

1 agents that every time you met FLOVA, she offered to pay?

2 A Every time I --

3 Q You met with Ms. McDonnell, she offered to pay?

4 A It wasn't every time.

5 Q I'm asking do you recall telling that to the  
6 prosecutors?

7 A I don't recall.

8 Q Okay.

9 MR. HAUSS: Could we pull up for the witness the  
10 302 dated October 23rd, 2013.

11 Your Honor, if I could approach. I have a hard copy  
12 I can just show the witness.

13 THE COURT: Go ahead.

14 MR. HAUSS: Thank you.

15 BY MR. HAUSS:

16 Q And I'm showing you a hard copy of the interview  
17 summary from your October 23rd, 2013, interview with the  
18 prosecutors. Have you had a chance to read that?

19 A Yes.

20 Q And does that refresh your recollection reading that?

21 A It does. But I -- I just don't recall every time.  
22 I'm trying to remember back a couple years. I just don't  
23 remember every time. But she did offer several times. I  
24 remember that.

25 MR. HAUSS: If I may approach again, Your Honor.



1 BY MR. HAUSS:

2 Q Now, you were shown some text messages from the  
3 prosecutor, by Mr. Harbach, on your direct.

4 MR. HAUSS: And if we could pull up Government  
5 Exhibit 439. And this is in evidence. And if we could  
6 blow up the body of the text.

7 BY MR. HAUSS:

8 Q And you testified that this is a text between  
9 yourself and Ms. McDonnell regarding the spa cover that  
10 you just talked about?

11 A Yes.

12 MR. HAUSS: And if we could go now to Government  
13 Exhibit 429, also in evidence. Sorry. 439. Thank you.

14 BY MR. HAUSS:

15 Q And this was Ms. McDonnell's response to you; is that  
16 correct?

17 A Yes.

18 Q And she asked, "Do I need to give you a credit card?"

19 A Yes.

20 MR. HAUSS: Now, if you could pull up Government  
21 Exhibit 440.

22 BY MR. HAUSS:

23 Q And this is a response from you to Ms. McDonnell.  
24 This is you indicating, "No. Jonnie is paying for it"?

25 A That's correct, because I called Jonnie and asked

1 him.

2 MR. HAUSS: And if we could pull up Government  
3 Exhibit 441.

4 BY MR. HAUSS:

5 Q And this is Ms. McDonnell's response to you; is that  
6 correct?

7 MR. DRY: It's not in evidence.

8 A Yes.

9 MR. HAUSS: I'm sorry?

10 MR. HARBACH: We don't think it's in evidence.

11 MR. HAUSS: 441?

12 MR. HARBACH: No. My mistake.

13 BY MR. HAUSS:

14 Q And this, I'm sorry, is Ms. McDonnell's response to  
15 you; is that correct?

16 A Yes.

17 Q And she says, "OMG. I didn't expect him to do that."  
18 That's correct?

19 A Yes.

20 Q Now, in the end, Ms. McDonnell, in fact, paid you for  
21 the work you did at the house, correct?

22 A Yes.

23 Q You've also indicated to the prosecutors that she  
24 paid the plumber and the air conditioning contractors  
25 directly; is that correct?

1 A Yes.

2 Q Now, you testified that Ms. McDonnell did not request  
3 an invoice until the investigation became public, correct?

4 A That's correct.

5 Q Okay. Now, you could have sent her an invoice before  
6 that, couldn't you have?

7 A Well, I was doing very small things. Sometimes I was  
8 there a couple hours. Sometimes it was four or five. And  
9 it was just too many little things. I just waited until  
10 the end to, you know, put everything on there. So --

11 Q Ms. McDonnell never told you not to send her an  
12 invoice; is that correct?

13 A That's correct.

14 Q And Mr. McDonnell never told you not to send an  
15 invoice, correct?

16 A That's correct.

17 Q Now, you also indicated that she never asked you what  
18 the price was; is that correct?

19 A She did not.

20 Q Okay. And you could have told her the price. She  
21 never told you not to tell her the price, correct?

22 A That's correct. But never asked. So --

23 Q So it was your choice not to send her an invoice and  
24 not to give her the price?

25 A Yes.

1 Q Now, you testified that it was only after the  
2 investigation became public that she asked for an invoice.  
3 What do you mean when you say "the investigation became  
4 public"?

5 A When it hit the newspapers.

6 Q Okay.

7 MR. HAUSS: So could we pull up Government  
8 Exhibit 496, which is in evidence.

9 BY MR. HAUSS:

10 Q Now, this is when you sent the invoice to  
11 Ms. McDonnell, correct?

12 A Yes.

13 Q And the date on here is March 4th, 2013?

14 A Yes.

15 Q Now, prior to this, Ms. McDonnell had asked you for  
16 the invoice, correct? You're saying that's in response to  
17 her because you had previously asked her for -- I'm  
18 sorry -- she had previously asked you for the invoice?

19 A Can you -- I'm not sure what you're trying to --

20 Q Sure. She had asked you, prior to you sending this,  
21 Ms. McDonnell had asked you for an invoice?

22 Let me ask you this. Do you recall telling the  
23 prosecutors that Ms. McDonnell asked you at least three  
24 times, both in person and over the phone, for an invoice  
25 before --

1 A Oh, yes.

2 Q -- you sent this?

3 A Yes.

4 Q And that was prior to this date, March 4th, 2013?

5 A Yeah. I'm not sure.

6 Q Now, you said that your first meeting with her was on  
7 November 11th, 2012, correct?

8 A Yes.

9 Q And this invoice was sent on March 4th. So that's  
10 about four months later?

11 A Yes.

12 Q Now, Ms. McDonnell asked you for an invoice from a  
13 business, correct?

14 A Yes.

15 Q She didn't want one from you personally?

16 A Yes.

17 Q But you did not give her an invoice from a business,  
18 did you?

19 A No.

20 Q And the reason for that was because you didn't have a  
21 contractor permit, correct?

22 A I don't have a contractor's license. And I have  
23 several LLCs, and I didn't want any of that into my -- my  
24 personal stuff.

25 Q Okay. So during your direct examination, you said

1 that you charged less than the cost of the labor and the  
2 actual work, correct?

3 A I just wanted it over with.

4 Q Okay. You're not a professional contractor, correct?

5 A No.

6 Q Okay. And you don't have a business or construction  
7 license?

8 MR. HARBACH: Objection. Relevance.

9 A No.

10 THE COURT: He's already answered this.

11 BY MR. HAUSS:

12 Q Is it correct that you generally only do jobs for  
13 family and friends?

14 A Yes.

15 MR. HAUSS: And could we show, just for the  
16 witness, this is not in the evidence, RM-146-0029. I'm  
17 sorry. RM-1546-0029. And if you could blow it up for the  
18 witness.

19 BY MR. HAUSS:

20 Q So, Mr. Williams, this is a text message sent from  
21 Ms. McDonnell to you on November 17th, 2012; is that  
22 correct?

23 A Yes.

24 MR. HAUSS: And, Your Honor, we would offer  
25 RM-1546-0029.

1 THE COURT: It will be admitted.

2 BY MR. HAUSS:

3 Q And, Mr. Williams, this is a text message where  
4 Ms. McDonnell invited you and your brother to a Christmas  
5 party; is that correct?

6 A Yes.

7 Q Now, you testified that at some point Ms. McDonnell  
8 gave you a box; is that correct?

9 A Yes.

10 Q Okay. And that was in the garage of the McDonnells'  
11 home?

12 A Yes.

13 Q Okay. Do you remember what the date was when she did  
14 that?

15 A No.

16 Q Do you recall if it was in March 2013 versus  
17 February?

18 A I believe it was -- it was in 2013.

19 Q Okay.

20 A March. That sounds about right.

21 MR. HAUSS: Could we --

22 A I'm not sure of the exact date. I don't know.

23 BY MR. HAUSS:

24 Q Sure. Now, there was no one else there that day but  
25 you and Ms. McDonnell, correct?

1 A That's not true.

2 Q There was someone else there?

3 A Several other people there.

4 Q Who else was there?

5 A My little brother was there and a helper. Because I  
6 put the dress in his truck.

7 Q And did you have an interview with the prosecutors  
8 and the police in this case just a month ago, on July 8th,  
9 2014?

10 A Yes.

11 Q Okay. Do you recall telling the prosecutors that you  
12 did not recall anyone else being present at the time?

13 A It was just her and I in the garage. They were  
14 outside.

15 Q Okay. So --

16 A But, you know.

17 Q Okay. Just -- so to clarify, it was just -- in the  
18 garage where she gave you the box, it was just you and  
19 Ms. McDonnell?

20 A Yes.

21 Q Okay. And you testified that you never looked in the  
22 box?

23 A I did not.

24 Q You never saw what was inside of the box?

25 A No.



1 Q You never saw the note that accompanied the box?

2 A No. It was for Jonnie. I wasn't going to read it.

3 Q Now, you testified on direct that when she gave you  
4 the box, Ms. McDonnell said some things about the loan  
5 from Mr. -- from your brother Jonnie; is that correct?

6 A Yes.

7 Q Do you remember that when you met with the  
8 prosecutors last month you told them, at first, that  
9 Ms. McDonnell never said anything about the loan when she  
10 delivered the box to you?

11 A That was a -- I believe that was a different day on  
12 that. I'm not sure if it was the same day. When the loan  
13 come up and when the dresses, I think it might have been a  
14 different day.

15 Q So you're not sure, when Ms. McDonnell gave you the  
16 box, if that was the time she talked about a loan?

17 A It was approximately the time. But I talked to her  
18 several times. I believe the \$50,000 check was a  
19 different time or a different day than that.

20 Q Okay. So sitting here today, you're not sure if when  
21 she talked about the loan and when she gave you the box  
22 were at the same time? You're not sure?

23 A That's true.

24 Q Okay. And you also testified on direct that when she  
25 gave you the box, Ms. McDonnell referred to Rachel, your

1 niece?

2 A Yes.

3 Q And that she said that the dresses were for Rachel?

4 A She said -- well, she said to give them back to  
5 Jonnie, to give them to Rachel and she could auction them  
6 off for charity or something, say the First Lady wore  
7 them. So --

8 Q Okay. Do you recall that when you met with the  
9 prosecutors last month, that what you said to them was  
10 that you learned the box contained clothing belonging to  
11 Rachel and you recall thinking to yourself why would  
12 Ms. McDonnell have Rachel's clothing?

13 A I didn't have a clue, because I hadn't heard nothing  
14 about these dresses. But she told me there were dresses  
15 in there.

16 Q Is it fair to say you have no idea if Ms. McDonnell  
17 ever met your niece Rachel? Is that fair?

18 A I don't have a clue. Yeah.

19 MR. HAUSS: One moment, Your Honor.

20 Thank you. Nothing further, Your Honor.

21 THE COURT: All right.

22 Anything from Mr. McDonnell?

23 MR. BURNHAM: No, Your Honor. We're good.

24 THE COURT: All right. Any redirect?

25 MR. HARBACH: Yes, please, Judge.

**REDIRECT EXAMINATION**

BY MR. HARBACH:

Q Mr. Williams, you were asked a moment ago about a Christmas party that Ms. McDonnell invited you to go to.

Did you go to the party, sir?

A No.

Q You testified on cross-examination that -- and I believe on direct also, that you mainly did contractor work and the like for friends; is that right?

A Yes. That's -- it's mainly relatives or friends.

Q Okay. At the time that you first went over to Mr. and Ms. McDonnell's residence, were they personal friends of yours?

A No.

Q Why did you do the work for them?

A Because Jonnie asked me to stop by there.

MR. HARBACH: Nothing else, Your Honor. Thank you.

THE COURT: All right.

Thank you, sir. You may stand down.

(Witness stood aside.)

THE COURT: All right. We're going to take the afternoon break. It will be 15 minutes.

(The jury left the courtroom.)

MR. BROWNLEE: Judge, could we steal your ear

1 just for a second.

2 THE COURT: Sure.

3 (At Bench.)

4 MR. DRY: This last witness, who is also on the  
5 list, we didn't give them. So they're not prepared to  
6 cross. And we have additional witnesses. I think our  
7 stuff is moving quicker than maybe anticipating, but -- no  
8 one's fault. We're just moving quicker. We're going to  
9 be done with our case, most likely, by Thursday. We did  
10 not give them additional names today so they are,  
11 understandably, not prepared to cross.

12 If the Court is willing to take a break at this  
13 point.

14 THE COURT: Well, we'll get through what we have  
15 and then go -- we'll just have to break early.

16 MR. DRY: Do you want to break now or -- the  
17 next witness is the one that they are not prepared to  
18 cross on. We do have a witness ready to go. We have a  
19 witness here ready to go, but they are not prepared to  
20 cross that witness because we didn't give that name to  
21 them before. We're going to give them all of our  
22 remaining witnesses' names so that this doesn't happen  
23 again.

24 THE COURT: Oh, jeez, man. We don't have --

25 MR. DRY: We can do the direct and the --

1 THE COURT: All right. We'll do the direct, and  
2 then we'll give you all overnight to --

3 MR. BROWNLEE: Okay. Thank you.

4 MR. DRY: Does that make sense? The direct  
5 might take a while. So I don't think we're going to break  
6 too early.

7 MR. BROWNLEE: Thank you, Judge.

8 (Recess taken from 4:07 p.m. until 4:25 p.m.)

9 (The jury entered the courtroom.)

10 THE COURT: Call your next witness, please.

11 MR. FAULCONER: Yes, Your Honor. The  
12 United States calls William Sessoms.

13 **WILLIAM SESSOMS, JR.,**

14 called as a witness by and on behalf of the government,  
15 having been first duly sworn by the Clerk, was examined  
16 and testified as follows:

17 MR. FAULCONER: May I, Your Honor?

18 THE COURT: Go ahead.

19 **DIRECT EXAMINATION**

20 BY MR. FAULCONER:

21 Q Good afternoon.

22 A Good afternoon.

23 Q Could you please state your name, and spell your last  
24 for the court reporter.

25 A William D. Sessoms, Jr. S-E-S-S-O-M-S.

1 Q And what is your -- what are your current  
2 occupations?

3 A I am President of Towne Financial Services Group and  
4 Mayor of the City of Virginia Beach.

5 Q And how long have you been the Mayor of Virginia  
6 Beach?

7 A Six years.

8 Q And Towne Financial Services Group, is that what you  
9 said?

10 A Correct.

11 Q Is that part of TowneBank?

12 A Yes, it is.

13 Q How long have you been with TowneBank?

14 A I've been with TowneBank eight years.

15 Q And how long in the current position that you have?

16 A Approaching three.

17 Q Now, where is the TowneBank location that you work  
18 at?

19 A In Virginia Beach, and it's 622nd Street.

20 Q And TowneBank, does it offer mortgages to borrowers?

21 A Yes, it does.

22 Q Could you move the microphone just a little closer to  
23 you?

24 A I'd be glad to.

25 Q Thanks. Now, you said that TowneBank offers

1 mortgages, right?

2 A Correct.

3 Q And in the roles that you've served in, have you  
4 overseen parts of that mortgage process?

5 A Yes.

6 Q And are you familiar with the types of documents that  
7 you all have?

8 A Yes.

9 Q Now, you said that TowneBank offers mortgages. Are  
10 those sort of the typical 30-year mortgages or are they  
11 usually different types of mortgages?

12 A No, they are not. They are usually short term. In  
13 the commercial bank, we have mortgages that might have a  
14 30-year amortization, but could have anywhere from a one  
15 year to five year, seven year type call.

16 Q And are those sometimes interest-only loans?

17 A Yes. Sometimes.

18 Q Now, do you also offer what's called a -- I think the  
19 term is HELOC?

20 A Yes.

21 Q Could you explain what a HELOC is?

22 A It's a home equity loan.

23 Q And does HELOC stand for Home Equity Line of Credit?

24 A Yes, it does.

25 Q And could you explain, just briefly, what that is?

1 A If someone has a residence and there's equity in  
2 their home, they can establish a line of credit to use  
3 that equity if and when they want to and be available to  
4 them.

5 Q All right. Well, I'd like to transition to some of  
6 your interactions with the McDonnells.

7 A Okay.

8 Q Can you explain -- have you met Mr. McDonnell?

9 A Yes.

10 Q Could you explain how you met Mr. McDonnell?

11 A I -- I met Mr. McDonnell in the late '80s. I had  
12 just run on the City Council seat in Virginia Beach, and  
13 he was just starting his political career, running for the  
14 House of Delegates, and ended up supporting him and  
15 working very hard for him.

16 Q Would you consider him a friend?

17 A Yes.

18 Q And in the years that you've known him, have you  
19 socialized with him and Ms. McDonnell?

20 A Yes.

21 Q All right. Well, I'd like to focus in on your  
22 interactions with them as President of TowneBank.

23 A Okay.

24 Q And can you tell us how -- did you end up doing some  
25 loans with them?



1 A Yes, I did.

2 Q Can you tell us how it first came about that you were  
3 doing some loan transactions with Mr. McDonnell?

4 A This was a number of years ago. I believe it was  
5 2005 and 2006, if my memory is correct. And they were  
6 purchasing homes down at Sandbrige, and I had the  
7 opportunity to offer them a mortgage loan on -- on one of  
8 those and I believe a HELOC on another.

9 Q And when you say "they were purchasing properties,"  
10 did you actually talk to Mr. McDonnell about these loans?

11 A Yes.

12 Q And do you know who "they" were in that conversation?

13 A He, his wife, and his sister.

14 Q And his wife and his sister have the same name,  
15 right?

16 A Correct.

17 Q Now, did he tell you how he was planning to buy the  
18 properties? Are these -- let me clarify that a little  
19 bit.

20 Did he tell you how he was planning on running the  
21 properties or what type of properties these were going to  
22 be?

23 A Yeah. These would be rental properties and  
24 investment properties.

25 Q And did he tell you whether there was any sort of

1 entity that was going to be affiliated with running the  
2 properties?

3 A Not that I recall.

4 Q Do you recall any conversation at any point about any  
5 sort of partnership or entity with him and his sister?

6 A Down the road, I believe there was one established.  
7 Yes.

8 Q But in terms of your interactions as TowneBank, did  
9 you ever actually do any business with that entity or was  
10 it always just with the individuals?

11 A As I recall, the key reason I was making these loans  
12 were the reason for their personal income and assets that  
13 the three of them held. I said, at one point, if they  
14 were going to form a partnership or something along those  
15 lines, however they wanted to do it would be fine as long  
16 as they understood they would be personally guaranteeing  
17 the debt.

18 Q Got it. So any business you did with them was a  
19 personal guarantee?

20 A Correct.

21 Q All right. Well, you said that there were two loans.  
22 Do you remember, were there two properties as well?

23 A Correct.

24 Q And I'd like to show you what's been marked for  
25 identification as Exhibit 41.

1 MR. FAULCONER: And if we could just zoom out on  
2 sort of the top third of that there.

3 BY MR. FAULCONER:

4 Q Is this a document called a "Disbursement Request and  
5 Authorization"?

6 A Yes, it is.

7 Q And is this one of the standard documents that will  
8 be part of a TowneBank loan package?

9 A Yes, it is.

10 Q I'm sorry. If you could just make sure to pull the  
11 microphone over.

12 A I picked up on that. Got it.

13 Q And does this appear to be for the first of the two  
14 loans that you did with Mr. McDonnell and his sister?

15 A I would believe so. If my recollection, another loan  
16 was made in 2006. So -- this is in 2005. So that's -- I  
17 believe this was the first one.

18 MR. FAULCONER: Your Honor, we'd offer Exhibit  
19 41 into evidence.

20 THE COURT: It will be admitted.

21 BY MR. FAULCONER:

22 Q All right. Now, Mr. Sessoms, what is the date under  
23 "Loan Date" on this document?

24 A September 23rd, 2005.

25 Q And is that consistent with your recollection of when

1 the first loan was?

2 A Yes.

3 Q And what's the dollar amount on this loan?

4 A \$249,990.

5 Q And is that consistent with your recollection of what  
6 the loan amount was?

7 A Yes.

8 Q Now, earlier you said that you had both mortgages and  
9 HELOCs. Do you remember whether this was a mortgage or a  
10 home equity line of credit?

11 A I -- my recollection, this is a HELOC.

12 Q And there under borrower, could you tell us what  
13 names are listed under borrower?

14 A "Robert F. McDonnell. Maureen C. McDonnell."

15 Q And do you recall whether, when it says "Maureen C.  
16 McDonnell," is that the wife or the sister?

17 A I don't recall.

18 Q Well, in terms of whether you recall the initials or  
19 not, do you recall whether the loan that you did was with  
20 the wife and Mr. McDonnell or with the sister and  
21 Mr. McDonnell?

22 A The sister.

23 Q Okay. Now, when it says there "Borrower: Robert F.  
24 McDonnell, Maureen C. McDonnell," does that -- can you  
25 tell, from looking at that, whether it was a personal

1 guarantee or a business guarantee?

2 A This was a personal loan. So that would result as  
3 being a personal guarantee.

4 Q All right. So there's no MoBo or anything --

5 A No.

6 Q -- any entity like that on the paperwork?

7 A No.

8 Q All right. I'd like to show you what's been marked  
9 for identification as Exhibit 42. Zooming in on the top  
10 third or so there, is this a settlement statement that  
11 appears to be for that same loan?

12 A I'm looking for the date.

13 Q Over in the sort of right, middle portion, there's a  
14 box that says "Settlement Date." Is that the same date?

15 A Yes.

16 MR. FAULCONER: Your Honor, we'd offer Exhibit  
17 42 into evidence.

18 THE COURT: It will be admitted.

19 BY MR. FAULCONER:

20 Q Now, just looking at the -- where it says "Name and  
21 Address of Borrower," again, what are the names that are  
22 listed there?

23 A "Robert F. McDonnell" and "Maureen C. McDonnell."

24 Q And that address that's listed on Sandfiddler Road,  
25 is that consistent with where you understood the

1 properties to be?

2 A Yes.

3 Q I'd like to show you now what's been marked for  
4 identification as Exhibit 43. Zooming in on that top  
5 portion there, is this another "Disbursement Request and  
6 Authorization"?

7 A Yes, it is.

8 Q And does this appear to be for the other loan?

9 A Yes, it does.

10 Q And what's the loan date on this?

11 A 3/1/2006. March 1st, 2006.

12 MR. FAULCONER: Your Honor, we'd offer Exhibit  
13 43 into evidence.

14 THE COURT: It will be admitted.

15 BY MR. FAULCONER:

16 Q Now, what's the dollar amount listed on this loan?

17 A \$722,550.

18 Q And under "Borrower," again, who's listed on this  
19 document as the borrower?

20 A "Robert F. McDonnell" and "Maureen C. McDonnell."

21 Q Is there anything about MoBo Realty on this document?

22 A No, there's not.

23 Q All right. Now, do you recall what type of loan this  
24 was in terms of when you were earlier talking about  
25 30-year mortgages versus more short-term mortgages?

1 A This would have a long-term amortization, which could  
2 be a 20- to 30-year mortgage -- I don't recollect the  
3 term -- with a call of a number of years less than that,  
4 20 to 30 years. Probably five years, I believe.

5 Q Okay.

6 A I'd have to look at it closer.

7 Q Got it. And we may have some documents later on  
8 that.

9 A Okay.

10 Q But do you recall whether or not, during the initial  
11 period of this loan, whether principal was being repaid or  
12 whether it was interest only?

13 A I believe -- we started with interest only, as I  
14 recall.

15 Q Now, I'd like to show you what's been marked for  
16 identification as Exhibit 44. And is this a settlement  
17 statement?

18 A Yes, it is.

19 Q And the date there, sort of in the middle, right-hand  
20 portion, under "Settlement Date," is that the same date --

21 A Yes, it is.

22 Q -- as the document we were just looking at?

23 A Yes, it is.

24 MR. FAULCONER: Your Honor, we'd offer Exhibit  
25 44 into evidence.

1 THE COURT: It will be admitted.

2 BY MR. FAULCONER:

3 Q Now, Mr. Sessoms, do you recall that the first  
4 settlement statement we were looking at says 3113  
5 Sandfiddler. Am I right about that?

6 A Yes, sir.

7 Q Okay. And this one is 3112; is that right?

8 A Yes.

9 Q And do you recall the properties being relatively  
10 close in proximity to each other?

11 A Yes.

12 MR. FAULCONER: Now, if we could go back briefly  
13 to Exhibit 43. I apologize, Mr. Starnes.

14 BY MR. FAULCONER:

15 Q The dollar amount on that one is what, again?

16 A \$722,550.

17 Q And do you recall the combined loan exposure being  
18 somewhere around a million dollars?

19 A Yes, I do.

20 Q Now --

21 MR. FAULCONER: We can take that down.

22 BY MR. FAULCONER:

23 Q Now, at the time that you extended these loans, you  
24 said you had conversations with Mr. McDonnell about them.  
25 Do you recall what, if anything, he told you about how he



1 intended to pay for the mortgages?

2 A Well, the -- the hope is, you know, the rental income  
3 would be a big part of paying it. At the same time, it  
4 was investment property. And there was no guarantee that  
5 that would be available. But the vast majority should be  
6 paid by the rental income generated by the property.

7 Q And do you recall him telling you; that he believed  
8 that there would be sufficient income to cover the  
9 mortgages?

10 A I don't recall that specifically, but that, I  
11 believe, was the intent.

12 MR. FAULCONER: Your Honor, I'd like to hand the  
13 witness a document for purposes of refreshing his  
14 recollection.

15 BY MR. FAULCONER:

16 Q And, sir, if you could just take a look at the bottom  
17 of Page 24, on to the top of Page 25. Starting on Page  
18 24, line 19. And if you could read through the bottom of  
19 that page on 24.

20 A Start at line 19?

21 Q Yes. Just read it to yourself. Don't read it out  
22 loud.

23 A Oh, okay.

24 Q Starting on line 19 on Page 24, down to the bottom,  
25 and then on to the next page, down to line 24 on the next

1 page.

2 Have you gotten a chance to read that?

3 A Yes, uh-huh.

4 Q All right. Does that refresh your recollection about  
5 whether or not -- about whether or not the subject of the  
6 rentals covering the mortgage payments came up in your  
7 conversation with -- with the Governor?

8 A Correct.

9 Q And what was the conversation?

10 A If I read through the whole thing, it's basically  
11 what I just said. But I do say that it's expected that  
12 the rents will cover the debt service.

13 Q And that was based on what Mr. Mr. McDonnell told  
14 you?

15 A Yes.

16 Q Now, I'd like to talk about how things sort of  
17 unfolded with these loans as time went along. I'd like to  
18 show you what's been marked for identification as Exhibit  
19 518. And zooming in on sort of top portion of this, is  
20 this a "TowneBank Loan Transaction History"?

21 A Yes, it is.

22 Q And is this for the smaller of the two loans?

23 A Yes, it is.

24 MR. FAULCONER: Your Honor, we'd offer Exhibit  
25 518 into evidence.

1 THE COURT: It will be admitted.

2 BY MR. FAULCONER:

3 Q Now, I see there at the top, it starts with  
4 January 1st, 2009. Am I correct that the loan actually  
5 started a number of years earlier, back in '05, right?

6 A Correct.

7 Q So is this a transaction history that just goes from  
8 the beginning of '09 until sometime in 2013?

9 A I just see the two dates, '09. But I'm assuming  
10 that's correct.

11 MR. FAULCONER: Now, if we could -- okay. Now,  
12 if we could zoom back out, Mr. Starnes. I apologize.

13 BY MR. FAULCONER:

14 Q All right. Now, Mayor Sessoms, have you had a chance  
15 to review this document before coming in to testify?

16 A Yes.

17 MR. FAULCONER: And if we could turn to the  
18 second page of this document, and if we could zoom in on  
19 the entry on 4/24/2009.

20 BY MR. FAULCONER:

21 Q Could you tell us what's indicated there on  
22 4/24/2009?

23 A A late fee of \$28.22.

24 Q And, Mayor Sessoms, could you tell us, is that the  
25 only late fee that's listed in this document?

1 A No, it's not.

2 Q Have you had an opportunity to count how many late  
3 fees are shown on this document from 2009 to 2013?

4 A I did.

5 Q Do you recall how many there are?

6 A I don't.

7 Q All right. Let me give you a moment, and I can hand  
8 you a paper copy.

9 MR. FAULCONER: And for the record, Your Honor,  
10 this is a paper copy of Exhibit 518.

11 THE COURT: All right.

12 THE WITNESS: Thank you.

13 BY MR. FAULCONER:

14 Q All right. Now, Mayor Sessoms, if you could start  
15 with the first page of this document. And I don't -- do  
16 you see any late fees on the first page?

17 A I do not.

18 Q All right. On the second page, can you tell us how  
19 many late fees you see on the second page of this  
20 document?

21 A Two.

22 Q And turning to the third page, can you tell us how  
23 many late fees are indicated on the third page?

24 A One.

25 Q So that -- so we're up to three now. Turning to the

1 fourth page, could you tell us how many additional ones  
2 are on the fourth page?

3 A One.

4 Q All right. So that's up to four. Turning to the  
5 fifth page, how many are located on that one?

6 A Two.

7 Q All right. Is that six now? Am I right? I  
8 shouldn't do math in public, but is that right?

9 A Yeah.

10 Q Now, on to the sixth page, how many late fees are  
11 indicated on the sixth page?

12 A One.

13 Q So that being seven. Turning on to the seventh page,  
14 are there any located on that seventh page?

15 A No.

16 Q Turning to the eight -- eighth page, am I correct  
17 that there are two located on that page?

18 A Yes.

19 Q All right. So that being up to nine. Turning to  
20 Page 9, am I correct that there is a tenth late fee on  
21 Page 9?

22 A Yes.

23 Q Turning to Page 10, am I correct that there are no  
24 late fees on Page 10?

25 MR. BROWNLEE: We don't object if Mr. Faulconer

1 wants to give the final number, and we'll agree with it.

2 THE COURT: He said he didn't remember the final  
3 number. So we have to do this.

4 BY MR. FAULCONER:

5 Q Okay. So turning to Page 10, are there any late fees  
6 on that page?

7 A No.

8 Q Turning to Page 11, am I correct that there is an  
9 11th and a 12th late fee on that page?

10 A Correct.

11 Q Turning to Page 12?

12 A Two of them.

13 Q So that would be up to 14. Am I right?

14 A Correct.

15 Q Okay. And then on to Page 13, how many late fees  
16 there? Are there two?

17 A Yes, two.

18 Q All right. So we're up to 16. Turning to Page 14,  
19 how many are on that page?

20 A Two.

21 Q I'm sorry. How many is that?

22 A Two.

23 Q All right. So we're up to 16. How many on Page 15?

24 A I don't see any.

25 Q Okay. On to Page 16?

1 A Don't see any.

2 Q On to Page 17?

3 A Do not see any.

4 Q All right. Now, regardless of whether or not you and  
5 I just doing that math was correct, are all the late fees  
6 from that time period located on that document?

7 A Yes.

8 Q And do you recall there being late fees, at times, on  
9 this loan?

10 A Yes, I do.

11 Q All right. I'd like to show you what's been marked  
12 for identification as Exhibit 519. And zooming in on the  
13 top, is this a loan transaction history for the other  
14 larger one of the loans?

15 A Yes, it is.

16 Q Now, without --

17 MR. FAULCONER: Your Honor, we'd offer Exhibit  
18 519 into evidence.

19 THE COURT: It will be admitted.

20 BY MR. FAULCONER:

21 Q And, Mayor Sessoms, have you had a chance, at some  
22 point, to look over this document?

23 A Yes, I have.

24 Q And without asking you to, necessarily, count this  
25 one up, does it seem about accurate that there are

1 somewhere in the range of 29 late fees on this document?

2 A Yes.

3 Q And is that consistent with your recollection of how  
4 this loan unfolded over time?

5 A Yes.

6 Q All right.

7 MR. FAULCONER: We can take that down.

8 BY MR. FAULCONER:

9 Q All right. So we've talked a little bit about late  
10 fees. Can you tell us whether you ever discussed those  
11 late fees with Mr. McDonnell?

12 A What I discussed would be late payments.

13 Q Probably scoot back from the microphone just a little  
14 bit.

15 A And just acknowledging that we just don't want the  
16 loan to go 30 days past due.

17 These payments, the late payment was at 15 days, as I  
18 recall. But that would be the extent of just saying we  
19 cannot let those payments go up to 30 days past due.

20 Q All right. Just lean back just a little bit. Sorry.

21 Now, can you explain what you mean by the late fee  
22 coming at 15 days and not wanting it to go to 30 days?  
23 What would happen at 30 days?

24 A We consider a loan reportable to the Board when it  
25 goes 30 days past due.



1 Q Got it.

2 A And that's something we always try to avoid. We want  
3 to make sure all the payments are in prior to that date.

4 Q And at times during the course of these loans, in  
5 that 15- to 30-day period, or at least between the late  
6 fee and whenever the 30 days would come, would you have  
7 conversations with Mr. McDonnell about them?

8 A Yes.

9 Q And would you tell him that -- what would happen if  
10 it went 30 days overdue?

11 A Yes.

12 Q And what would usually happen at that point?

13 A If it goes to the Board, in other words, it hits a  
14 Board report, and that would have an impact on your  
15 credit.

16 Q And about how many of these conversations would you  
17 say you had with Mr. McDonnell?

18 A I don't recall off the top of my head.

19 Is it somewhere in here?

20 Q Well, let me ask you this way. Was it more than just  
21 two or three?

22 A I would say more than two or three. Yes.

23 Q Now, as time went on, over the course of these loans,  
24 did you also have conversations with Mr. McDonnell about  
25 him trying to get more permanent financing for these

1 properties?

2 A Yes, I did.

3 Q And could you tell us what happened in those  
4 conversations?

5 A Well, as you know, interest rates were extremely low  
6 during this time period, and he wanted to take advantage  
7 of getting the lowest interest rate and, again, fixed for  
8 a longer term.

9 As I shared with you, we have an amortization that  
10 might be long, but the loan would be callable in a shorter  
11 term period. It was his desire to get a long-term rate of  
12 20 to 30 years at a fixed rate for that term, also with  
13 the market being, you know, low interest rates like they  
14 were.

15 Q And about how often do you think you had  
16 conversations with him, in terms of how often annually,  
17 about potentially getting more permanent financing?

18 A I'd say we probably had that annually.

19 Q And was that from the time that the loan started in  
20 '05 on through until at least 2012?

21 A I would say that's fair. Because he always was  
22 trying to get a long-term interest rate, you know,  
23 especially with the rates being low, yes.

24 Q Now, can you recall what he told you about whether or  
25 not he was able to get, at least from 2005 to 2011,

1 whether he was actually able to get that refinancing?

2 A He was having issues getting refinanced because the  
3 real estate market had turned, and as such, the values of  
4 the properties had decreased and that would result in not  
5 being an acceptable loan to value on trying to obtain the  
6 permanent financing.

7 Q Now, what about any conversations about something we  
8 had talk about earlier, about whether or not the rentals  
9 were covering the mortgage payments? Did you have  
10 conversations with Mr. McDonnell about that?

11 A Yes.

12 Q And can you tell us what you recall about whether or  
13 not the rental payments were covering the mortgage  
14 payments?

15 A It -- they were not covering it, and they were using  
16 their personal assets to cover the debt service.

17 Q And do you recall about how much there was in a gap?

18 A I do not.

19 Q Now, I'd like to show you what's been marked for  
20 identification as Exhibit 227. Zooming in on the top  
21 there, is this a document called a "Change in Terms  
22 Agreement"?

23 A Yes, it is.

24 Q And is it dated August 30th of 2011?

25 A Yes, it is.

1 Q And does this pertain to the larger of the two loans  
2 we've been discussing?

3 A Yes, it does.

4 MR. FAULCONER: Your Honor, we'd offer Exhibit  
5 237 into evidence.

6 THE COURT: It will be admitted.

7 BY MR. FAULCONER:

8 Q All right. Now, Mayor Sessoms, do you recall -- this  
9 is, I guess -- am I correct that this is about five years  
10 after the loan had started in 2006?

11 A That would be correct.

12 Q Do you recall the terms in the loan changing in 2011?

13 A I -- I do.

14 Q Looking at this document where it says "Description  
15 of Change in Terms," what does it say the change in terms  
16 is?

17 A It says, "Description of Change in Terms." Is that  
18 what you're looking at?

19 Q Yes. Could you just read what it says there?

20 A "Change payments from interest only to principal and  
21 interest payments; fixed rate of 2.75 will expire on  
22 September 28, 2012."

23 Q All right. So before this time, they had just been  
24 interest payments; is that right?

25 A Correct.

1 Q And then after this time, what was going to change?

2 A We would be getting a principal payment as well as  
3 interest. In other words, we would start collecting  
4 principal. The loan had been extended for five years,  
5 which is about right on an interest only, and then we had  
6 to start terming it out.

7 Q Now, where it says "fixed rate of 2.75 percent will  
8 expire on September 28, 2012," what does that mean in  
9 terms of that only being about a year from when this  
10 document is dated?

11 A Well, two things. First of all, the rent -- the  
12 interest rate is lowest -- lower because it's only a  
13 one-year commitment. And then secondly, the intent of  
14 trying to find permanent financing.

15 Q So at this time, what was going to happen about a  
16 year from then, or so?

17 A We'd have the option to reprice the loan, renew the  
18 loan or call the loan.

19 Q And is it typical for you, when you have situations  
20 like this, to do sort of an annual review after that year  
21 is up?

22 A Absolutely.

23 Q And based on your review of the bank files from  
24 TowneBank on these loans, was there a renewal process the  
25 following year?

1 A Yes.

2 Q As part of that, do you request a personal financial  
3 statement?

4 A Yes.

5 Q I'd like to show you what's been marked for  
6 identification -- sorry. Real quick.

7 Could you tell us what it means to call a loan? You  
8 used that terminology.

9 A We have the ability to demand payment for the loan to  
10 be paid in full.

11 Q Got it. And does that allow you, then, to go after  
12 somebody's assets if they say no?

13 A Yes.

14 Q Now, I'd like to go back to showing you what's been  
15 marked for identification as Exhibit 416. And is this a  
16 personal financial statement -- if we could scroll up to  
17 include the top portion.

18 Is this a personal financial statement that was  
19 located in the TowneBank file for these loans?

20 A Yes, it is.

21 MR. FAULCONER: Your Honor, we'd offer Exhibit  
22 416 into evidence.

23 THE COURT: It will be admitted.

24 BY MR. FAULCONER:

25 Q All right. Now, Mayor Sessoms, looking at this page,

1 I see there that it says "TowneBank" at the top, but it  
2 says "Heritage Bank" on the actual top of the document.

3 A Correct.

4 Q Do you accept personal financial statements that are  
5 filled out on a different bank's form, at times?

6 A Yes.

7 Q And did you do that in this case?

8 A Yes.

9 Q All right. Looking at this document, can you tell us  
10 whose handwriting is on that first page?

11 A It's Mr. McDonnell's.

12 MR. FAULCONER: And if we could zoom out.

13 BY MR. FAULCONER:

14 Q Zooming in on the numbers that are there towards the  
15 bottom, is that also Mr. McDonnell's handwriting?

16 A Yes, it is.

17 Q All right.

18 MR. FAULCONER: Turning to the second page.

19 BY MR. FAULCONER:

20 Q Have you had a chance to review this second page as  
21 well?

22 A At some point, yes.

23 Q And do you recognize the handwriting on it?

24 A Yes.

25 Q Whose is it?

1 A Mr. McDonnell's.

2 Q All right. Turning to the third page, do you  
3 recognize the handwriting on this page?

4 A Mr. McDonnell's.

5 Q Turning to the fourth page, do you recognize the  
6 handwriting on the fourth page?

7 A Mr. McDonnell's.

8 Q Now, turning back to Page 1 of this document, zooming  
9 in on the box on the lower right-hand corner, do you see  
10 there where it says \$2,075,000 under "Total Liabilities"?

11 A Yes, I do.

12 Q Sir, is there anything listed on this document under  
13 "Other Loans Payable"?

14 A No, there's not.

15 Q Where it says "Loans on Life Insurance," am I correct  
16 that there's about \$4,000 listed there?

17 A Correct.

18 Q "Taxes Due, Income," there's nothing listed, right?

19 A Correct.

20 Q How much is listed under "Credit Card or Accounts  
21 Payable"?

22 A 10,000.

23 Q Is there anything listed under "Liabilities of  
24 Proprietorships"?

25 A No, there's not.



1 Q Is there anything listed under "Liabilities of  
2 Partnerships or Joint Ventures"?

3 A No.

4 Q Is there a number there of about \$2,061,000 for loans  
5 on wholly owned real estate.

6 A Yes, there is.

7 MR. FAULCONER: If we could zoom back out.

8 A Excuse me?

9 BY MR. FAULCONER:

10 Q Sorry. I'm just asking Mr. Starnes to zoom back out.

11 Now, Mayor Sessoms, in the chance that you've had to  
12 review this document, have you looked at it to see whether  
13 or not there's anything about any loans from Jonnie  
14 Williams or Starwood Trust on this document?

15 A I have looked at that.

16 Q And is there any reference to any loan from Jonnie  
17 Williams or Starwood Trust on this document?

18 A No, there's not.

19 Q All right. Now, I'd like to show you what's been  
20 marked for identification as Exhibit 373. Mr. Sessoms,  
21 does this appear to be a version of that same document  
22 with the same handwriting, but just a different fax header  
23 on it?

24 A Yes, sir.

25 MR. FAULCONER: Your Honor, we'd offer Exhibit

1 373 into evidence. It's been stipulated as a business  
2 record.

3 THE COURT: It will be admitted.

4 MR. FAULCONER: Now, if we could take that down.

5 BY MR. FAULCONER:

6 Q I'd like to show you what's been marked for  
7 identification as Exhibit 106. Mr. Sessoms, is that  
8 another Heritage Bank personal financial statement?

9 A Yes, it is.

10 Q Now, to be clear, was this one in your TowneBank  
11 files?

12 A I don't see where it says TowneBank anywhere on it.

13 Q Got it. But I --

14 MR. FAULCONER: Your Honor, I'm simply going to  
15 ask him about recognizing handwriting. It's a stipulated  
16 business record.

17 THE COURT: All right.

18 BY MR. FAULCONER:

19 Q Mr. Sessoms, on this first page of this document, do  
20 you recognize the handwriting?

21 A Yes, I do.

22 Q Whose handwriting it is?

23 A Mr. McDonnell's.

24 MR. FAULCONER: If we could zoom back out. And  
25 if we could just flip through the second page.

1 BY MR. FAULCONER:

2 Q Is that also Mr. McDonnell's handwriting?

3 A Yes.

4 Q The third page, is that Mr. McDonnell's handwriting?

5 A Yes.

6 Q And the fourth page --

7 A Yes.

8 Q -- is that also his handwriting?

9 Sorry. Was that a yes?

10 A Yes.

11 Q And then on the fifth page, is that also

12 Mr. McDonnell's handwriting?

13 A Yes.

14 Q All right.

15 MR. FAULCONER: We can take that down.

16 BY MR. FAULCONER:

17 Q Now, I'd like to show you what's been marked for

18 identification as Exhibit 417.

19 MR. FAULCONER: All right. And zooming in --

20 yes.

21 BY MR. FAULCONER:

22 Q All right. Now, is this a credit report for

23 Mr. McDonnell?

24 A Yes, it is.

25 Q And where you see there under "User ID," do you

1 recognize who that indicates is the user ID?

2 A Yes, I do.

3 Q And is that -- who does it indicate?

4 A Denise Stolle. She was a loan administrative person  
5 at the bank.

6 MR. FAULCONER: Your Honor, we'd offer Exhibit  
7 417 into evidence.

8 THE COURT: It will be admitted.

9 BY MR. FAULCONER:

10 Q Now, Mr. Sessoms, before coming in to testify, have  
11 you had a chance to review this document?

12 A Yes, I have.

13 Q And on this document, are there any loans from Jonnie  
14 Williams or Starwood Trust listed?

15 A No.

16 Q Now --

17 MR. FAULCONER: We can take that down.

18 BY MR. FAULCONER:

19 Q Now, to be clear, Mr. Sessoms, you've been in banking  
20 for a while, are personal undocumented loans typically put  
21 on credit reports?

22 A Yes -- oh, no. Not on credit reports, no.

23 Q So how do you find out about them if there is an  
24 undocumented loan?

25 A On a financial statement.

1 Q Now, was the loan that was being reviewed in 2012  
2 ultimately renewed?

3 A Yes.

4 Q I'd like to show you what's been marked for  
5 identification as Exhibit 423. Zooming in on the top half  
6 of this, is this the document that shows that loan being  
7 renewed?

8 A Yes, it does.

9 MR. FAULCONER: Your Honor, we'd offer Exhibit  
10 423 into evidence.

11 THE COURT: It will be admitted.

12 BY MR. FAULCONER:

13 Q Now, Mayor Sessoms, this says, "Loan Change  
14 Authorization." From looking at the loan amount on this  
15 document, can you tell whether this was the larger or the  
16 smaller of the two loans?

17 A It's the large loan. And you can see where the  
18 principal has been reduced.

19 Q Got it. So over the course of the -- I guess how  
20 long is it, about six years now, since the 2006  
21 origination?

22 A Yes.

23 Q About how much had been paid down in principal?

24 A 15,000.

25 Q And, Mayor Sessoms, at any time before this loan

1 change was finalized, whether it was on the phone or in  
2 person, did you have any conversations with Mr. McDonnell  
3 in which he told you anything about loans from Jonnie  
4 Williams or Starwood Trust?

5 A No.

6 MR. FAULCONER: One moment, Your Honor.

7 (Counsel conferring with co-counsel.)

8 MR. FAULCONER: No further questions, Your  
9 Honor.

10 THE COURT: Thank you.

11 All right. Ladies and gentlemen, we're going to have  
12 to stop a little early today. I'm sorry about that, but  
13 it couldn't be helped.

14 I have some instructions that I'm going to give you,  
15 repeating what I told you earlier, but simply for  
16 emphasis. And as I said, I'm simply repeating what I told  
17 you earlier, but I want you to listen to me.

18 I instruct you that during the trial, you are not to  
19 discuss the case with anyone or permit anyone to discuss  
20 it with you. Until you retire to the jury room at the end  
21 of the case to deliberate on your verdict, you simply are  
22 not to talk about this case. And that means between  
23 yourselves as well as outsiders. It also means you are  
24 not to discuss what goes on in the jury room with anyone  
25 outside.

1 Second, do not read or listen to anyone or anything  
2 touching on this case in any way. If anyone should try to  
3 talk to you about it, bring it to the Court's attention  
4 promptly.

5 Third, do not try to do any research or make any  
6 investigation about the case on your own. Everything that  
7 you will learn about this case should come here in open  
8 court. And finally, do not form any opinion until all of  
9 the evidence is in. Keep an open mind until you start  
10 your deliberations at the end of the case.

11 So jealously guard your -- the juror's prerogative  
12 and privacy in this matter. Do not discuss this case with  
13 anyone. You will find that we are absolutely serious  
14 about this.

15 And the reason for this should be clear. We want a  
16 fair trial. We want a fair trial for these defendants as  
17 well as the government. A fair trial. And they can only  
18 get a fair trial from a jury that's unbiased and impartial  
19 and follows the instructions of the Court.

20 So everybody understand it? You hear it? All right.  
21 Great.

22 Now, we will see you tomorrow -- let me give you a  
23 time. Again, it will be 9:45. So we will see you in the  
24 morning. You all take care, and we will see you at 9:45  
25 sharp.

1 (The jury left the courtroom.)

2 (The trial adjourned at 5:03 p.m.)

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## I N D E X

## WITNESSES

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## EMILY RABBITT

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## DR. GEORGE VETROVEC

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## AMY BRIDGE

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